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Subtitle A – Investing in Prevention and Supporting families

Sec. 50702. Purpose (423, 17)

Part I – Prevention Activities Under Title IV-E

Sec. 50711. Foster Care Prevention Services and Programs (424, 3)

States (optional)

Who is eligible?

A child who has been identified as a candidate for foster care (425, 20-21) for whom there is a written prevention plan (426, 23) that identifies the child as at imminent risk of removal (426, 8-9) that includes a foster care prevention strategy for maintaining the child safely at home or temporarily with a kinship caregiver, and lists the services or programs to be provided to the child or on behalf of the child (427, 5-15). This includes children whose adoption or guardianship arrangement is at risk of disruption or dissolution that would result in a foster care placement (426, 8-9).

A foster child who is a pregnant or parenting foster youth (426, 1-2) for whom there is a prevention plan that lists the services or programs to be provided to or on behalf of the youth to ensure that the youth is prepared or able to parent, and that describes the foster care prevention strategy for the child born to the youth (428, 1-9).

Covered services can be provided to the child or youth as described above, or to the parents or kinship caregivers of the child when the need of the child, parent, or caregiver for the service or programs are directly related to the safety, permanence or wellbeing of the child or to prevent the child's entry into foster care (424, 20 - 425, 2).

What services are covered?

- Mental Health treatment services for a maximum of 12 months (425, 3-9)
- Substance abuse prevention and treatment services provided by a qualified clinician for a maximum of 12 months (425, 3-9)
- In-home parent skill-based programs for a maximum of 12 months that include parenting skills training, parenting education, and individual and family counseling (425, 10-16)

Covered services must be:

- Provided under a trauma-informed organizational structure and treatment framework (428, 13-22)
- Promising, supported or well supported practices, meaning that:
 - The practice must have a book manual or other writing that specifies the protocol and how to administer the practice
 - There is not an empirical basis suggesting that the practice has a risk of harm
 - If multiple studies have been performed, the overall weight of evidence supports the practice
 - Outcome measures are reliable, valid, and administered consistently (429, 10 – 430, 10)

And meets definitions outlined of promising, supported, or well supported practice, each of which require study designs of increasing scientific rigor (430, 15 – 433, 25).

HHS will release a list of pre-approved practices and guidance regarding these requirements no later than October 1, 2018 (434, 3 - 10).

What outcome measures are required? (434, 15 – 435, 12)

The state must report to HHS regarding any child who, or on behalf of whom, a prevention service was provided the following:

- The services and total expenditure for each service
- Duration of services
- For a candidate, the child's placement status at the beginning and end of the one-year period and whether the child entered foster care within 2 years after being determined a candidate for foster care.

What changes to the State Plan are required?

There are several requirements for updates to the Title IV-E state plan describing the services, outcomes, monitoring, risk assessments, and practices, how the services/practices were selected, etc. (435, 14 – 437, 25). Additional state plan requirements include:

- Description of the consultation that the state agency engaged in with other state agencies responsible for administering health programs, including mental health and substance abuse treatment and prevention and community-based organizations (438, 1-14).
- How the state assesses children and their parents or caregivers to determine eligibility for the prevention services described (438, 15-19).
- How the prevention services will be coordinated with other services provided to the family under the state plan part B (438, 20 – 439, 3).

State plan requirements related to workforce include:

- A description of the steps the state is taking to support and enhance a competent, skilled, and professional child welfare workforce to deliver trauma-informed and evidence-based services (439, 4-16).
- A description of how the state will provide training and support for caseworkers performing needs assessments, connecting to services, and knowing how to access trauma-informed and evidence-based practices, and overseeing/monitoring the effectiveness of the service (439, 17-25).
- Description of how caseload size and type for prevention caseworkers will be managed, determined and overseen (440, 1-3).

HHS can require additional reporting regarding performance measures (440, 4-12).

What limitations are placed on reimbursement for these services? (440, 15)

Federal funds are not permitted for practices that are not promising, supported or well-supported unless the plan includes a well-designed and rigorous evaluation strategy for that practice (440, 16-22). The secretary may waive this limitation under some conditions (440, 23 – 441, 6).

How will prevention services be measured? (441, 7)

Beginning in federal fiscal year 2021, and annually thereafter, HHS will establish these prevention services measures:

- Percent of candidates for foster care who do not enter foster care (441, 17-25)
- Per child Spending (442, 1-7)

HHS shall establish and annually update the prevention services measures based on the median state values of the information provided under each measure for the three most recent years (442, 8-14), and considering differences in price levels of goods and services using regional price parities established by the Bureau of Economic Analysis of the Department of Commerce or other data as deemed appropriate by HHS (442, 15-21).

HHS shall publish the prevention services measures for each state annually (442, 22-25).

What is the Maintenance of Effort requirement for state foster care prevention measures?

If a state elects to provide prevention services measures as defined under this law, the state foster care prevention expenditures for the federal fiscal year cannot be less than the amount of expenditures for federal fiscal year **2014** (443, 3-10). [States that had less than 200,000 children as of the 2014 US Census can elect to use federal fiscal year 2015 or 2016 \(443, 8-10, 445, 3-7\).](#)

State foster care prevention expenditures means:

- Expenditures for mental health and substance abuse prevention services
- State expenditures for foster care prevention services and activities funded under TANF, including federal TANF funds, under the state plan developed under Title IV-E Part B, or under SSBG, (443, 14-23).
- State expenditures for foster care prevention services and activities under any other state program, other than any state expenditures for foster care prevention services and activities under Title IV-E, including a waiver (443, 24 – 444, 6).
- The term “state expenditures” means all state or local funds that are expended by the state or local agency, including state and local funds that are matched or reimbursed by the federal government and state and local funds that are not matched or reimbursed by the federal government (444, 7-14).

Prevention services and activities means:

- States electing to provide prevention services under this law must report the expenditures defined above for federal fiscal year 2014 and for federal fiscal years after to determine that the state is in compliance with the MOE requirement (444, 16-23).

The Secretary of HHS will specify the specific services and activities that are “prevention services and activities” for the purpose of the report (444, 23 – 445, 2). [Editorial note: it does not appear that the legislation specifies that the MOE requirement only relates to expenditures on prevention services as covered under this law (mental health, substance abuse, in home services that meet the promising, supported and well-supported requirements) but rather allows HHS to define the services that are to be reported as part of MOE. May require further inquiry].

Funding used to meet the MOE requirement can’t be used to match new Title IV-E prevention funds under this law (445, 8-15).

Some caveats to Title IV-E prevention funding include:

- Administrative costs covered under Title IV-E prevention are not eligible for payment under other Title IV-E programs (445, 18-20).
- Administrative costs are eligible for payment without regard to whether a child is eligible for foster care maintenance payments. [Editorial note: no foster care eligibility rate needs to be applied to administrative costs associated with prevention services] (445, 21-25).
- Services provided under this law are not considered aid or assistance under Title IV-E or any other program under this act (TANF, SSI, Medicaid, etc.) (446, 2-8).

If a child is in kinship care for more than 6 months and is provided with prevention services, but enters foster care, how will that impact their Title IV-E eligibility for foster care?

A child who receives prevention services under this law for more than 6 months while in the home of a kin caregiver, and who would otherwise meet the AFDC-related eligibility requirements to be eligible for Title IV-E reimbursement in foster care except in that the child has lived in a kinship care placement for more than 6 months prior to removal, will meet the AFDC requirement for foster care maintenance payments (446, 9-20).

How will Title IV-E fund the described prevention services for eligible children, youth and their caregivers?

Reimbursement Rates:

- In federal fiscal years 2020 – 2026, the reimbursement rate for covered prevention services that are promising, supported or well supported, will be 50 percent (447, 22 – 448, 8).
- In federal fiscal year 2027 and beyond, the reimbursement rate for covered prevention services will be the state FMAP rate (448, 9-16).

Conditions:

- Not less than 50 percent of the total amount payable to the state starting in federal fiscal year 2020 must be for **well-supported practices** (449, 18-24).
- Well-supported practices are defined as a practice that is (432, 19 – 433, 25):
 - Superior to an appropriate comparative practice, in conventional standards of statistical significance in 2 studies that were rated by an independent review board as well-

- designed and well-executed, use rigorous random control trials or use quasi-experimental research design, and were carried out in a usual care or practice setting, and
- At least one of the studies established that the practice had a sustained effect for at least one year after the end of treatment.

How will Title IV-E fund administrative and training costs associated with covered prevention services? (450, 5 – 451, 11)

The reimbursement rate is 50 percent for administrative and training expenditures (450, 5-10 and 450, 19-22).

Title IV-E prevention covers administrative expenditures that are necessary for the proper and efficient administration of the state plan for the provision of covered services, including expenditures to establish processes and procedures to implement the provision of services and expenditures for data collection and reporting (450, 5-18).

Training topics covered by Title IV-E prevention include:

- training with respect to the provision of covered services (450, 20-22)
- how to determine who is eligible for covered services or programs (451, 5-7)
- how to identify and provide appropriate services and programs (451, 7-9)
- how to oversee and evaluate the ongoing appropriateness of the programs (451, 9-11)

Training can be provided to:

- Personnel who are employed or preparing for employment by the state or local agency administering the state plan (450, 22 – 451, 1).
- Staff of state-licensed or state-approved child welfare agencies providing services to children and their parents or caregivers (451, 1-5).

What technical assistance and best practices will be available?

HHS is required to provide technical assistance and disseminate best practices (451, 20 – 452, 3).

Through grants, contracts, or interagency agreements, HHS is required to evaluate research on promising, supported and well-supported practices and establish a clearinghouse that includes:

- culturally specific, location- or population-based adaptations of practices (452, 11-12)
- specific outcomes associated with each practice, including whether the practice reduces abuse or neglect and reduce the likelihood of placement by supporting birth and kinship families, and improving targeted supports for pregnant and parenting youth and their children (452, 15-22)

HHS may also conduct their own evaluations and/or collect additional data to assess how the provision of covered services and programs reduce foster care placement, increase kinship care or improve child wellbeing (452, 23 – 453, 9).

HHS is also required to prepare periodic reports to Congress and is appropriated \$1M annually (453, 11-25).

Indian Tribal Organizations (454, 2- 456, 14)

Who is eligible?

The same children, youth, and their parents or caregivers are covered as described above (454, 17-20).

What services are covered?

The HHS secretary can specify the requirements applicable for the provision of services and programs. The requirements should be consistent with the requirements for states, described above, and should allow for programs and services that are adapted to the culture and context of the tribal communities served (455, 6-16).

What are the outcome/performance measures?

The HHS secretary shall establish specific performance measures for each tribe, organization or consortium that elects to participate (455, 17 – 456, 3).

Sec. 50712. Foster Care Maintenance Payments for Children with Parents in a Licensed Residential Family- Based Treatment Facility for Substance Abuse (456, 15)

Who is eligible?

A child who would be eligible for foster care maintenance payments, except that the child does not have to meet the AFDC related income requirement (457, 5-10) if the child is:

- placed with a parent in a licensed residential family-based treatment facility for substance abuse for not more than 12 months (457, 11-14), and
- the recommendation for the placement is documented in the case plan prior to placement (457, 15-17), and
- the treatment facility provides parenting skills training, parent education and individual and family counseling (457, 22-25), and
- the treatment program and parenting program are provided under an organizational structure and treatment framework that is trauma-informed (457, 25- 458, 6).

Only children who meet the AFDC requirement will be considered recipients of assistance or aid for purposes of Medicaid and/or SSBG (458, 9-14).

Sec. 50713. Title IV-E Payments for Evidence-Based Kinship Navigator Programs (458, 19)

Title IV-E will reimburse costs for kinship navigator programs that are promising, supported or well-supported practices at 50 percent, without regard to eligibility for foster care maintenance payments (459, 1-12).

Part II – Enhanced Support Under Title IV-B

Sec. 50721. Elimination of Time Limit for Family Reunification Services While in Foster Care and Permitting Time-Limited Family Reunification Services When a Child Returns Home from Foster Care (459, 15)

How are the time limits for reunification services changed?

Family reunification services can be provided while the child is in foster care without limitations on the amount of time the child is in foster care (460, 6-10) and for 15 months after a child has returned home from foster care (460,11-15).

Sec. 50722. Reducing bureaucracy and unnecessary delays when placing children in homes across state lines. (461, 1)

How will the Interstate Compact on the Placement of Children (ICPC) electronic case processing system be funded?

By October 1, 2027, for states (and excluding Puerto Rico, Guam, American Samoa the US Virgin Islands and Indian tribes, tribal organizations, or tribal consortium) the state plan regarding Interstate Compact Agreements will include the use of an electronic interstate case-processing system (461, 9-25- 462, 2).

HHS can provide funding for the development of an electronic interstate case-processing system to expedite the interstate placement of children in foster care or guardianship, or for adoption.

- Purpose of funding: to develop a system that will expedite the placement of children in foster care, guardianship or adoption across state lines (462,13-18).
- Request for funding: A state seeking funding shall submit to HHS the following information:
 - A description of the goals and outcomes to be achieved during the time of the grant including (462, 22 – 463, 12):
 - 1) Reducing the length of time to place across state lines
 - 2) Improved administrative processes and reducing costs in foster care
 - 3) Secure exchange of information
 - A description of the activities to be funded in whole or in part by the grant (463, 13-15)
 - A description of strategies for integrating programs across state lines (463, 16-18)
 - Other information as required by HHS (463, 19-20)
- Use of Funds: To connect to the interstate case-processing system (464, 3-8)
- Evaluation: ACF must submit to Congress one year after final grant is awarded an evaluation of the following:
 - How the use of grant funds has changed the length of time it takes to place a child across state lines (464, 15-18)
 - The number of cases subject to ICPC were placed using the interstate case-processing system and the number of ICPCs that were processed outside of the system by each state in each year (464, 19-25)

- The progress made by states implementing the interstate case-processing system (465, 1-3)
- How the interstate case processing system has affected child safety and well-being (465, 4-8)
- How the interstate case processing system has affected administrative costs and case worker time processing interstate placements (465, 9-12)
- Data Integration: Secretary must work in conjunction with states to assess how the interstate case processing system could be used to better serve children by: (465,13-18)
 - Connecting system to other systems (FBI, Judicial Systems etc.)
 - Simplify reporting on children that have been victims of sex trafficking (466, 1-5).
 - Improve the ability of states to quickly complete background check (466, 6-10).
- Funding: Secretary should reserve \$5,000,000 of funds made available for federal fiscal year 2018 for grants and the amount reserved should remain available through federal fiscal year 2022 (466, 15-20).

Sec. 50723. Enhancements to Grants to Improve Wellbeing of Families Affected by Substance Abuse (466, 21)

How are the existing regional partnership grants to improve child well-being changed?

- Existing regional partnership grants to improve child well-being have been changed to specifically target the well-being of and permanency of children and families **affected by the heroin and opioid epidemic** (467, 2-8).
- Regional partnerships have been redefined to mean a collaborative agreement within a state or between states that must include the following partners (467, 11-14):
 - The state child welfare agency (467, 18-20)
 - The state agency responsible for administering the substance abuse prevention and treatment block grant (467, 21-25)
- If the regional partnership grant intends to serve children in out-of-home placement, the Juvenile Court of Administrative office of the court that is most appropriate to address families who are involved in the court due to child abuse or neglect must also be included (468, 1-10).
- Optional partners for regional partnership grants may include Indian tribes, non-profit/for profit child welfare providers, substance abuse treatment providers, community mental health providers, schools, law enforcement, tribes, any other community agencies (468,11- 468, 7).
- There is an exception to the mandatory partners. Tribes do not have to partner with State child welfare agency. Tribes may not partner solely with other tribal child welfare agencies. Tribes may partner with tribal court organizations in lieu of state judicial partners (468, 8-24).

How long are the grants authorized and how are they funded?

- Regional partnership grants are funded from federal fiscal year 2017 – 2021 (470, 2-3).

- Grants will be not less than \$250,000 and not more than \$750,000 per grant per federal fiscal year (470, 4-6).
- Grants will be disbursed in two phases, a planning phase and an implementation phase. The planning phase is not to exceed 2 years and not to exceed a cost of \$250,000 total (470, 15-23).
- Funds can be disbursed when HHS determines that the partnership has made progress towards the goals of the grant. The following goals for the regional partnership grant have been added:
 - increase reunification rates for children who have been placed in out-of-home care
 - improve substance abuse treatment outcomes for parents, including retention in treatment and successful completion of treatment (471, 19-21, 472 1-4)
 - facilitate the implementation, delivery and effectiveness of prevention services and programs under section 471(e) (472, 5-7)
- Grant applications must also include a plan to sustain the program created through the regional partnership grant once the grant ends by using funds under 471(e) (472,13-20)
- Additional language clarifies how the grant can be used for substance abuse treatment programs, must demonstrate collaboration between child welfare, substance abuse and mental health agencies, and include a set of core indicators (473, 11-474, 10)
- A semi-annual report to HHS is required (474, 17-475, 9)

Part III– Miscellaneous

Sec. 50731. Reviewing and Improving Licensing Standards for Placement in a Relative Foster Family Home (475, 13)

How will licensing standards for foster family homes be impacted?

Not later than October 1, 2018, the Secretary of Health and Human Services shall identify reputable model licensing standards with respect to the licensing of foster family homes (475, 17-20).

State Plan Requirements: Not later than April 1, 2019 States must provide to the Secretary:(475, 22- 476, 6)

- a) Whether state licensing standards are in accordance with model standards identified by the Secretary, and if not, specific reason for deviation; and (476, 7-13)
- b) Whether the State has elected to waive standards established in 471(a) (10) (A) for relative foster family homes (pursuant to waiver authority provided by 471(a) (10) (D)), a description of which standards the State most commonly waives, and if the State has not elected to waive the standards, the reason for not waiving these standards; and (476, 14-21)
- c) If the State has elected to waive standards specified in subparagraph (B), how caseworkers are trained to use the waiver authority and whether the State has developed a process or provided tools to assist caseworkers in waiving non-safety standards per the authority provided in 471(a) (10) (D) to quickly place children with relatives; and (476 22-477, 4)
- d) A description of the steps the State is taking to improve caseworker training or the process, if any (477, 5-7).

Sec. 50732. Development of a statewide plan to prevent child abuse and neglect fatalities (477, 8)

How will states be required to address the prevention of child fatalities from abuse and neglect?

In the state plan, states must document the steps taken to track and prevent child maltreatment deaths by including:

- a description of the steps the State is taking to compile complete and accurate information on child deaths, including gathering relevant information on the deaths from the relevant organizations in the State, including entities such as State vital statistics department, child death review teams, law enforcement agencies, offices of medical examiners or coroners (477, 15-24), and
- a description of the steps the State is taking to develop and implement a comprehensive, statewide plan to prevent the fatalities that involves and engages relevant public and private agency partners, including those in public health, law enforcement and the courts (478,1-6).

Sec. 50733. Modernizing the Title and Purpose of Title IV-E (478, 7)

The heading for part E of title IV of the Social Security Act is amended to include the Title IV-E prevention program: "Subtitle E – Federal Payments for Foster Care, Prevention, and Permanency" (478, 9-13).

The purpose of the act is updated to include kinship guardianship assistance programs and prevention programs (478, 18-20).

Part E – Federal Payments for Foster Care, Prevention, and Permanency (478, 12)

Sec. 50734. Effective dates (478, 23)

For Parts I-III of this act are **effective on October 1, 2018 (federal fiscal year 2019)**, with exceptions noted below (479, 1-7). The act includes provisions that will not take effect until subsequent years, including:

- Reimbursement for services under the prevention plan is effective October 1, 2019 (447, 22 – 448, 8).¹
- Reimbursement for kinship navigator program is effective October 1, 2018 (479, 1-4).
- HHS will establish prevention services measures in federal fiscal year 2021 (441, 9-14).
- By October 1, 2027, the state plan regarding Interstate Compact on the Placement of Children (ICPC) Agreements will include the use of an electronic interstate case-processing system (461, 12).
- Grants for developing interstate case processing systems will be made available beginning in federal fiscal year 2018- 2022 (466, 15-20).
- Regional partnership grants are funded from federal fiscal year 2017 – 2021 (470, 2-3).
- State plans must be updated with additional information regarding foster family licensing no later than April 1, 2019 (476, 4-6).
- State plan requirements regarding child abuse and neglect fatalities as of the effective date of this act, October 1, 2018 (479, 1-4).
- The change in the name of Title IV-E to include prevention is effective on the date of enactment of this Act **February 9, 2018** (478,7, 479, 6-7).

If the state must make changes to state law, some flexibility regarding timelines for updating state plans is allowed (479,12-480, 2).

Tribes will be granted the appropriate extensions based on the estimated time needed for compliance with the act (480,3-19).

¹ Part IV, Section 50746 allows a state to request a delay of the change in reimbursement with regard to child caring institutions. If HHS allows the delay, reimbursement for kinship navigator programs and prevention services will also be delayed.

PART IV – ENSURING THE NECESSITY OF A PLACEMENT THAT IS NOT IN A FOSTER FAMILY HOME

Sec. 50741. Limitation on Federal Financial Participation for Placements That Are Not in Foster Family Homes (481, 4)

How are Title IV-E foster care maintenance payments restricted for children placed in child caring institutions (i.e. group homes, congregate care facilities, etc.)?

Federal Title IV-E foster care maintenance payments will not be paid on behalf of a child placed in a child care institution after the third (3rd) week for which maintenance payments have been paid, (481, 18-24) unless:

- The placement is a qualified residential treatment program (QRTP) (482, 12);
- The placement specializes in providing prenatal, post-partum, or parenting supports for the youth (482, 14);
- The child is 18 years old and placed in a supervised independent living setting (482, 17); or
- **The placement provides high quality residential care and support services to children and youth who have found to be, or are at the risk of becoming, sex trafficking victims, in accordance with each State's policies and procedures (482, 20-24).**

What is a qualified residential treatment program (QRTP)?

The QRTP is a newly defined placement setting that has several requirements that must be met to receive federal funding.

- An assessment must be conducted and documented in the treatment plan within 30 days after the placement is made stating the need for this type of placement. If the assessment is not made within this timeframe no federal foster care maintenance payments can be claimed (483, 4-12).
- The program has a trauma-informed treatment model to address clinical needs documented in the treatment plan (484, 18-25).
- The program must have registered or licensed nursing staff and other licensed clinical staff who provide care within the scope of their practice, as defined by State law, are on-site **in accordance with the selected treatment model**, and available 24-hours a day and 7 days a week (485, 1-10).
 - **These staff do not have to be employees of the QRTP (486, 24 – 487, 4).**
- Facility must be licensed in accordance with existing Title IV-E requirements and accredited by any of the following organizations: CARF, JCAHO, COA, any other non-for-profit agencies approved by HHS (486, 4-16).
- If it's in the best interest of the child/youth, family members must be involved in the child's treatment (485, 11-14). There must also be documentation on outreach to family members and fictive kin, including siblings, how those family members are integrated into the treatment process and involved post-discharge, and how sibling connections are maintained throughout (485, 15-20).
- The program must provide discharge planning and family-based aftercare support for at least 6 months post discharge (486, 1-3).

Does this section also limit reimbursement for administrative costs for children placed in child caring institutions?

No. The prohibition on federal payments related to foster care maintenance payments for children who are not placed in a foster family home does not extend to federal payments for administrative expenditures (485, 17-23).

How is a foster family home defined?

Foster family home is defined as the home of an individual or family that is licensed or approved by the State, and the individual has been licensed as a foster parent (487, 18-21).

Foster parent is defined as adhering to a/the reasonable and prudent parent standard, providing 24-hour care, and who provides care for **not more than 6** foster children (488, 3-12) with some flexibility allowed.

Foster parent are not prohibited from renting a home in which they care for the child(ren) (489, 7-11).

A foster family home can provide care for more than 6 children only in these cases:

- To allow a parenting foster youth to remain with their child (488, 19-21).
- To allow siblings to live together (488, 22-23)
- To allow a child with an established relationship with the family to remain with the family (489, 1-3).
- allowing a family with special training to care for a child(ren) with severe disabilities (489, 4-6).

Definitions of child care institution and supervised settings remain the same (489, 12-25, 490, 1-7).

How will to the Act address the concern that placements in the juvenile justice system will increase?

Because of changes to the allowability of maintenance payments for placements that are not a foster family home, the State plan must include a certification that the State will not enact or advance policies or practices that would result in a significant increase in the population of youth in the State's juvenile justice system (490, 20-25, 491, 1-66).

The GAO will conduct a study to ensure that States are not enacting or advancing policies or practices that would result in a significant increase in the State's juvenile justice system. The Comptroller General shall evaluate the following:

- Whether the change in maintenance payments for placements that are not a foster family home has impacted juvenile justice systems, and
- The extent to which children or youth who are placed in foster care and who are also subject to the juvenile justice system are placed in a facility under the jurisdiction of the juvenile justice system, and
- Whether a lack of available congregate care placements under the jurisdiction of the child welfare system is a contributing factor to these placements.

This study will be completed and presented to Congress by December 31, 2025 (491, 7-25).

Will judges and courts be trained on the new restrictions on funding for placements that are not foster family placements?

To be eligible to receive Court Improvement Program grant funding, courts must provide for the training of judges, attorneys, and other legal personnel in child welfare cases on Federal child welfare policies and payment limitations with respect to children in foster care who are not in a foster family home (490, 8-17)

Sec. 50742. Assessment and Documentation of the Need for Placement in a Qualified Residential Treatment Program (492, 1)

What are the requirements for an assessment?

Within 30 days of the start of placement, a qualified individual defined as a trained professional or licensed clinician who is not an employee of the state or affiliated with any placement setting in which the child is placed by the state (492, 14-16), must document in the assessment the following:

- Strengths and needs of the child using age-appropriate evidence-based, validated, assessment tool approved by HHS (492, 17-20).
- A determination of whether the needs of the child can be met with a family member or through placement in a foster family home (492, 21-26, 493, 1-4).
- If a child is deemed in need of a placement that is not with a family member or foster family home, it must be specified which approved setting would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short- and long-term goals for the child, as specified in the child's permanency plan.
- A list of child-specific short- and long-term mental and behavioral health goals (493, 5-7).

HHS can waive the requirement that the trained professional or licensed clinician is not an employee of the state agency and is not connected to or affiliated with any placement setting in which the child is placed. HHS can waive this requirement if the State certifies to HHS that the trained professionals or licensed clinicians with responsibility for performing the assessment maintains objectivity with respect to determining the most effective and appropriate placement (496, 10-18).

The assessment process requires that the State establish a family and permanency team to work in conjunction with the individual doing the assessment (493, 8-14).

- Team shall consist of all appropriate biological family members, relatives, fictive kin as well as professionals who are a resource for the child, such as teachers, medical or mental health providers who have treated the child, or clergy (493, 15, 21).
- If the child is 14 years of age or older the child should be a part of the team member identification process (493, 21, 25).

What are the case plan requirements?

- Reasonable and good faith efforts documented to identify and include all individuals for the family and permanency team (known throughout the rest of this summary as "team") (494, 3-6).
- Contact information for these team members as well as other family members of fictive kin not part of the team (494, 7-11).
- Evidence that the meetings of the team are convenient to the family and that the assessment was determined in conjunction with the team (494, 12-16).

- If reunification is the goal, evidence showing the parent has input on the members of the team (494, 17-20).
- Placement preferences of the team. If the qualified individual recommends a placement that differs from the team's recommendation, documentation of the reasons why the placement recommendations are different.
- Recognition that children should be placed with their siblings, unless there is a finding by the court that such placement is contrary to their best interest.
- If the recommended placement is not a family foster home, the case plan must indicate why the child's needs cannot be met by the family or in a foster family home. A lack of foster family homes shall not be an acceptable reason (495, 18-21).
- If placement in a QRTP is recommended, the case plan shall specify why the QRTP is the most effective, least restrictive setting, providing the appropriate level of care, and how the recommended placement is consistent with goals in the child's permanency plan (495, 21-25, 496, 1-3).
- Within 60 days of the start of each placement in a QRTP, the court must determine and approve (496, 19-24) the placement and that the placement provides the most effective level of care and meets the goals of the permanency plan (497, 5-14). This documentation will become part of the case plan (497, 16-22).
- Even with the recommendation of the qualified individual, placement preference of the family and permanency team, and recommendation in the case plan, the court may disapprove the placement.

What are the requirements for status reviews and permanency hearings for children placed in qualified residential treatment programs?

If the child remains in a QRTP the agency shall submit, at each status review and permanency hearing, the following evidence:

- Documentation of an ongoing assessment of strengths and needs to support that the needs cannot be met in a foster family home (498, 3-7) and that the QRTP continues to provide the most effective level of care and remains consistent with permanency plan goals (498, 7-13).
- Documentation of the specific treatment services still needed and the length of time the child is expected to need these services (498, 14-17).
- Documentation of efforts made by the State agency to prepare the child to return home, to be placed with a relative or legal guardian, or to be placed in a foster family home (498, 18-22).
- If the child is in a QRTP for a length of stay more than 12 consecutive months or 18 non-consecutive months, or when a child under age 13 has a length of stay of more than 6 consecutive or non-consecutive months, the State agency must submit to HHS: (498, 23-25, 499, 1-10)
 - The most recent versions of case plan documentation, and
 - The signed approval by the head of the State agency for continued placement.

Sec. 50743. Protocols to Prevent Inappropriate Diagnoses (499, 11)

The Title IV-E state plan must include, in collaboration with the Medicaid agency, an outline of the procedures and protocols that ensure that children in foster care placements are not inappropriately diagnosed with mental illness, other emotional or behavioral disorders, medically fragile conditions, or

developmental disabilities and, therefore, inappropriately placed in settings that are not foster family homes (499, 21-25, 500, 1-4).

HHS is required to conduct, and present to Congress, an evaluation of the above-mentioned protocols and analyze if the State complies and identify best practices no later than January 1, 2020 (500, 8-18).

Sec. 50744. Additional Data and Reports Regarding Children Placed in a Setting That is Not a Foster Family Home (500, 19)

Replaces requirements for how HHS must report child placement information to Congress annually. A comparison of the changes is below:

- **OLD REQUIREMENT** (i) the number of children in the placements and their ages, including separately, the number and ages of children who have a permanency plan of another planned permanent living arrangement;
NEW REQUIREMENT (i) in respect to a placement that is not a foster family home:
 - (I) the type of the placement setting, including whether the placement is shelter care, a group home and if so, the range of the child population in the home, a residential treatment facility, a hospital or institution providing medical, rehabilitative, or psychiatric care, a setting specializing in providing prenatal, post-partum or parenting supports, or some other kind of child-care institution and if so, what kind (501, 3-14)
 - (II) the number of children in the placement setting and the age, race, ethnicity, and gender of each of the children (500, 15-18)
 - (III) for each child in the placement setting, the length of the placement of the child in the setting, whether the placement of the child in the setting is the first placement of the child and if not, the number and type of previous placements of the child, and whether the child has special needs, or another diagnosed mental or physical illness or condition; (500, 19-25, 501, 1-3)
 - (IV) the extent of any specialized education, treatment, counseling or other services provider in the setting (502, 4-7)
- **OLD REQUIREMENT** (ii) the duration of the placement in the settings (including for children who have a permanency plan of another planned permanent living arrangement);
NEW REQUIREMENT (ii) separately, the number and ages of children in the placements who have a permanency plan of another planned permanent living arrangement (502, 8-11)

Sec. 50745 Criminal Records Checks and Checks of Child Abuse and Neglect Registries for Adults Working in Child Care Institutions and Other Group Care Settings (502, 12).

Requires states to have provisions to conduct criminal history and child abuse and neglect registry checks, including fingerprint-based checks, on any adult working in a child care institution, including group homes, residential treatment centers, shelters, or other congregate care settings. Effective Oct. 1, 2018. For flexibility, allows for the State to provide the Secretary with alternative criminal records checks the State conducts. (502, 12 – 503, 21).

Sec. 50746. Effective Dates; Application to Waivers (504, 1)

- The effective date is **January 1, 2018**, subject to the dates below (504, 3-6).
- If the state must make changes to state law, some flexibility regarding timelines for updating state plans is allowed (504, 7-24).
- The effective date for when federal Title IV-E funding will be limited for child caring institutions, as described above, including the requirements for a QRTP going into effect is **October 1, 2019** (505, 4-6), excepting that:
 - If a state requests a delay in the effective date for child caring institutions, HHS can delay the effective date for up to 2 years. If the effective date is delayed, reimbursement for prevention services and kinship navigation services as defined in Part I of this act are also delayed (505, 7-25).
- Criminal records checks and checks of child abuse and neglect registries for adults working in child caring institutions and other group care settings shall take effect on **October 1, 2018** (506, 1-6).
- If a state is under a Title IV-E waiver the amendments in this legislation take effect after the expiration (without regard to an extension) of the waiver (506, 7-14).

PART V – CONTINUING SUPPORT FOR CHILD AND FAMILY SERVICES

Sec. 50751. Supporting and Retaining Foster Families for Children (506, 17)

The purpose of family support services as defined in the Social Security Act is expanded to include supporting and retaining foster families so they can provide quality family-based settings for children in foster care (507, 1-3).

For federal fiscal year 2018, \$8,000,000 is appropriated to provide competitive grants for states, Indian tribes, or tribal consortiums to support the recruitment and retention of high quality foster families to increase the capacity to place more children in family settings. Priority is placed on states, Indian tribes or tribal consortia with the highest percentage of children in non-family settings. The funding shall remain available until federal fiscal year 2022 (507, 7-18).

Sec 50752. Extension of Child and Family Services Programs (507, 19)

Authorization for the following programs is extended from 2017 - 2021:

- The Stephanie Tubbs Jones Child Welfare Services Program (507, 21-24)
- Promoting Safe and Stable Families Program (508, 1-6)
- Discretionary Grants (508, 7-10)
- Reservations for Monthly Caseworker Visit and Regional Partnership Grants (508, 11-19)
- State Courts Program (508, 20 – 509, 4). Also repeals the expired provisions (509, 5-6).

Sec. 50753. Improvements to the John H. Chafee Foster Care Independence Program and Related Provisions (509, 7)

- Expands the Chafee program to youth who have aged out of foster care up to age 23, if the State has exercised the option to extend foster care through the age of 21 (509, 13-18).
- Require updates to certifications in the state plan, including:
 - If the state has extended foster care to age 21, or if a state has not elected to extend foster care to age 21, but does provide services similar to those covered under Chafee, Title IV-B or state funds, the State will make the certification that it will provide assistance and services to youth who have aged out of foster care and not reached age 23 (510, 4-19).
 - Additionally, a certification that not more than 30 percent of the amounts paid to the State from its allotment for a federal fiscal year will be expended for room or board for youth who have aged out of foster care and have not turned 21 or age 23 (for those states that have extended foster care up to age 21) (510, 20- 511, 3).
- Allows unspent funds to be redistributed in the next year. If a state does not expend its full allotment of Chafee Foster Care funds for the federal fiscal year, the Secretary may make the funds available for re-distribution in the 2nd succeeding federal fiscal year if the State applies for funds (511, 14-22), and the State will use the funds for the purpose it was originally allotted (511, 24 – 512, 9). The redistributed amount will be the amount made available multiplied by the state foster care ratio (512, 11-18). The amount redistributed should be considered part of allotment made for the federal fiscal year in which the distribution was made (512, 19-24). For purposes of

redistribution, State includes Indian Tribes, Tribal Organizations or tribal consortium that receives allotments under this program (513, 1-4).

- Eligibility for Education and Training vouchers is extended until youth attain 26 years of age or for 5 years total, whatever occurs first (513, 5-15). Vouchers under the program may be available to otherwise eligible youth who are at least 14 years of age (513, 16-19).
- Changes the Title of the Act to “John H. Chafee Foster Care Program for Successful Transition to Adulthood” (513, 23 – 514, 2).
- Updates the language for the fund, including:
 - Helping youth attain a high school diploma and post-secondary education (514, 13-14)
 - Training and opportunities to practice daily living skills such as financial literacy and driving instruction (514, 17-20)
 - Achieving meaningful, permanent connections with a caring adult for foster care youth age 14 and older (514, 25 – 515, 2)
 - Engaging in age or developmentally appropriate activities, positive youth development, and experiential learning that reflects what their peers in intact families’ experience, for foster care youth 14 and older (515, 6-11)
- Updates several state plan requirements to update the use of language, for example, “adolescent” is changed to “youth”, and language is updated to address transition to adulthood (515, 16 – 516, 4).
- Updates Reporting Requirements so that HHS must deliver a report to several Congressional committees regarding the National Youth in Transition Database (NYTD) and any other databases regarding children who have aged out of foster care or left foster care for kinship guardianship or adoption no later than October 1, 2019 (516, 15-24). The report should include:
 - A description of the reason for entry into foster care and the foster care experiences, such as length of stay, number of placement settings, case goal, and discharge reason of 17-year-olds who are surveyed by the NYTD and an analysis of the comparison of that description with the reasons for entry and foster care experiences of children of other ages who exit from foster care before attaining age 17 (517, 1-10).
 - A description of the characteristics of the individuals who report poor outcomes at ages 19 and 21 (517, 11-14).
 - Benchmarks for determining what constitutes a poor outcome for youth who remain in or have exited from foster care and plans to incorporate these benchmarks in efforts to evaluate child welfare agency performance in providing services to children transitioning from foster care (517, 15-21).
 - An analysis of the association between types of placement, number of overall placements, time spent in foster care and other factors, and outcomes at ages 19 and 21 (517, 22-25)
 - An analysis of the differences in outcomes for children in and formerly in foster care at age 19 and 21 among states (518, 1-3).

Clarifies that documentation provided to foster youth leaving foster care must include “any official documentation necessary to prove that the child was previously in foster care” (518, 4-9).

PART VI – CONTINUING INCENTIVES TO STATES TO PROMOTE ADOPTION AND LEGAL GUARDIANSHIP

Sec. 50761. Reauthorizing Adoption and Legal Guardianship Incentive Programs (518, 13)

The Adoption and Legal Guardianship programs are reauthorized. States are eligible in federal fiscal years 2016 through 2020 if other existing requirements are met (518, 17-18). Funding is appropriated through 2021 (518, 19-20) and can be expended through 2021 (518, 21-22). [Editor's note: clarification may be needed to understand why eligibility is extended through 2020 but funding is available through 2021].

PART VII – TECHNICAL CORRECTIONS

Sec. 50771. Technical Corrections to Data Exchange Standards to Improve Program Coordination (519, 2)

- Section 440 of the Social Security Act is amended to change the title to “Data Exchange Standards for Improved Interoperability” (519, 5-8).
- HHS will establish an interagency work group established by the OMB and considering State government perspectives, by rule, designate data exchange standards to govern the following: (519, 9-13)
 - Necessary categories of information that State agencies operating programs under state plans approved under this part are required under applicable Federal law to electronically exchange with another state agency (519, 14-18)
 - Federal reporting and data exchange required under applicable federal law (519, 19-20)
- The data exchange standards will:
 - Incorporate a widely accepted, non-proprietary, searchable, computer-readable format, such as Extensible Markup Language (519, 23-25)
 - Contain interoperable standards developed and maintained by intergovernmental partnerships such as the National Information Exchange Model (520, 1-3)
 - Incorporate interoperable standards developed and maintained by Federal entities with authority over contracting and financial assistance (520, 4-6)
 - Be consistent with and implement applicable accounting principles (520, 7-8)
 - Be implemented in a manner that is cost effective and improves program efficiency and effectiveness (520, 9-11)
 - Be capable of being continually upgraded as necessary (520, 12-13)
- Not later than 24 months after the date of the enactment of this section, HHS should issue a proposed rule that:
 - Identifies federally required data exchanges, include specification and timing of exchanges to be standardized, and address the factors used in determining whether and when to standardize data exchanges (520, 22 – 521, 2)
 - Specifies state implementation options and describes future milestones (521, 3-4)

Sec 50772. Technical Corrections to State Requirement to Address the Developmental Needs of Young Children (521, 5)

- State plan for child welfare services is amended to require that states include a description of activities that the state has undertaken to reduce the length of time children who are under 5 years old are without a permanent family and the activities the state undertakes to address the developmental needs of *all vulnerable children under 5 years of age* (521, 8-11).

PART VIII – ENSURING STATES REINVEST SAVINGS FROM INCREASE IN ADOPTION ASSISTANCE

Sec. 50781. Delay of Adoption Assistance Phase-In (521, 15)

Delays assistance without meeting an income test for children with special needs who do not reach their second birthday in the federal fiscal year their adoption assistance agreement is signed. The use of an income test is required for an additional six and a half years. Beginning on January 1, 2018 and through June 30, 2024, the income test would need to be applied for any child who is under the age of two when the adoption assistance agreement is signed, provided the child will not reach his/her second birthday before the last day of the federal fiscal year in which that agreement is signed. As of July 1, 2024, no income test would be used for purposes of determining a child's eligibility for Title IV-E adoption assistance, regardless of the child's age.

Sec. 50782. GAO Study and Report on State Reinvestment of Savings Resulting from Increase in Adoption Assistance (522, 1)

The GAO must study how states are compliance with the requirements related to State savings from the increase in adoption assistance, including:

- The requirement that States shall spend any savings resulting from the increase on adoption assistance on services provided to children and families under Title IV-B and IV-E.
- The requirement that states spend 30 percent of the savings on post adoption services, post guardianship services, and services to support permanency for children who do not enter foster care, with at least 2/3 of the required 30 percent to be spent on post adoption and post guardianship services.

The Controller General is required to submit a report to Congress and HHS, but the Act does not give a date for this report.