

Keep Kids Safe with Family & Out of Foster Care

How Texas Should Leverage the Family First Act (FFPSA) During the 2023 Legislative Session



Too Many Children are Entering Foster Care Because their Families Cannot Access Needed Services

- Of the Texas children who entered foster care in recent years, 2 out of 3 did so for reasons related to a caregiver's substance use – a much higher rate than the national average of 39 percent.¹
- Since FY 2017, 5-7 percent of children who entered foster care did so because of their own unaddressed mental health challenges rather than abuse or neglect.² Although only a small number of children, many have the worst experiences that create the greatest strain on the foster care system. From September 2019 to July 2021, 35 percent of Children Without Placement entered foster care because of their own unaddressed mental health challenges – not because of abuse or neglect.³

One Family's Story

One Texas mom's experience highlights the importance of strengthening family preservation services. Addie is a special education teacher who adopted her daughter from foster care. Her daughter experienced severe trauma at a young age and was placed in one foster home after another before being adopted. Addie has supported her daughter through multiple hospitalizations, psychiatric inpatient stays, and residential treatment. Eventually, Addie ran out of money and turned to Child Protective Services (CPS) to access mental health services she could no longer afford, such as residential treatment. To her dismay, CPS removed her daughter from their home and placed her back in foster care in 2019. After that, Addie watched CPS place her daughter in different homes and treatment centers, increasing the trauma her daughter had already experienced.

Addie's daughter should have been connected to intensive mental health services. Because none were accessible when she needed them, she reentered foster care. Eventually, her daughter was connected to the right mental health services and support and returned home, but it took over a year.

Texans Support Expanding Access to Family Preservation Services

- A 2022 statewide poll by the University of Texas - Tyler shows that 81 percent of Texans (including 79% of Republicans and 77% of Independents) support increased funding for services that prevent child neglect.⁴
- Of those 81 percent of Texans, the poll found 85 percent (including 74% of Republicans and 86% of Independents) believe state leaders should expand access to family preservation services and draw down federal matching funds to support families needing mental health or substance use services to avoid foster care.⁵

Recommendations to the Legislature

Build on Chair Kolkhorst and Chair Frank’s 2021 legislation by taking necessary steps to draw down federal FFPSA funding to keep children out of foster care

In 2021, the Legislature enacted two bills, HB 3041 by Chair Frank and SB 1896 by Chair Kolkhorst, to begin implementing the 2018 Family First Prevention Services Act or FFPSA. (For more details on FFPSA and these implementation efforts, see the Appendix). Unfortunately, because legislators did not invest state funds in any of the FFPSA efforts currently underway, Texas cannot draw down federal matching funds intended to maximize the reach of family preservation services. By missing the federal match opportunity, Texas is missing a chance to expand investments in the programs provided to keep more families safely together by supporting mental health, reducing substance use, and strengthening parenting.

BUDGET RECOMMENDATION: Extend the HB 3041 pilots for another two fiscal years.

BUDGET RECOMMENDATION: Direct DFPS to submit a Title IV-E Prevention Plan, the first needed step so Texas may receive federal matching funds for evidence-based family preservation services. The Plan should incorporate the FFPSA implementation strategies directed by HB 3041, SB 1896, ongoing work to support pregnant and parenting youth in care, and other initiatives determined during the 2023 legislative session.

BUDGET RECOMMENDATION: Invest General Revenue (GR) in evidence-based family preservation services, including the family preservation services that families receive through the HB 3041 pilots and through SB 1896 and, importantly, other evidence-based services that are eligible for a federal match because they are on the Title IV-E Prevention Services Clearinghouse. Investing GR is a key step to qualify for federal matching funds.

Expand the availability of mental health, substance use, and parent skill-building services eligible for federal matching funds under FFPSA

Too often, families are torn apart when needed services are unavailable or inaccessible. Evidence-based programs and services, such as Multisystemic Therapy (MST), Nurse-Family Partnership (NFP), and Methadone Maintenance Therapy, can help struggling families. However, some services may be inaccessible or unavailable depending on where a family lives, workforce shortages, or other logistical barriers that could be mitigated if additional funding were available to scale up current programs or bring new programs to Texas.

The federal government made MST, NFP, Methadone Maintenance Therapy, and other named programs or services eligible for up to a 50 percent federal match when provided to a child at imminent risk of entering foster care.⁶ Federal law requires reimbursement only be used to help children at imminent risk of entering foster care, but additional federal guidance gave states flexibility to establish additional parameters.

Unfortunately, the Texas-created criteria for the state to receive federal matching funds for family preservation services further narrows which services may be eligible for a federal match under FFPSA. As a result, even if Texas implements the recommendations outlined in the previous section, the state could only begin drawing down a limited amount of federal match funding for family preservation services, making it difficult for Texas to increase access to needed services.

However, if the state expands the criteria for receiving federal matching funds, the additional funding would allow Texas to stand up new service providers or expand the capacity of current service providers.

By drawing down federal matching funds for more family preservation services, Texas could amplify investments in mental health, substance use treatment, and parenting supports, helping these services reach more families.

The Senate Bill 910 Report, required by legislation Chair Schwertner championed last session and written by DFPS in collaboration with Texas A&M University, outlined that other states are using broader criteria as they implement FFPSA. Notably, the Report recommended that Texas should consider allowing the state to draw down federal matching funds for evidence-based preservation services provided to an additional subset of children or families at imminent risk of foster care, including children in FBSS, children who have reunified with their family or been adopted, children whose parents express Refusal to Assume Parental Responsibility, children of families under Investigation or in alternative response, and children at risk of CPS involvement in other service sectors such as juvenile justice, substance use, or mental health treatment.⁷

BUDGET RECOMMENDATION: Expand Texas state-set criteria to receive federal matching funds for family preservation services delivered to children or families at imminent risk of foster care.

Avoid unnecessary intrusion in families while still providing needed help by exploring creative cost-reimbursement models that other states are using to implement FFPSA

DFPS investigations are sometimes necessary, but they can be invasive, traumatizing, and run the risk of removing children from their families,⁸ so there should be ways for struggling families to receive additional support to keep their children safe without enduring the trauma of an investigation.

Although Texas offers evidence-based mental health and substance use services to families outside CPS and the foster care system, mental health and substance use service providers are often underfunded, have waitlists or interest lists, and cannot always connect families to the services they truly need.⁹ Additionally, providers must report suspected abuse or neglect to CPS even if they are actively working with the family to resolve challenges. Under Texas' current FFPSA strategies, the only families who may receive services that could qualify for a federal match are a tiny subset of families who have gone through a DFPS investigation. As a result, not only is Texas limiting the number of cases where services are eligible for FFPSA match funds, but it is also missing an opportunity to reduce calls to DFPS and investigation of Texas families.

Several other states are beginning (or planning) to use a "Community Pathways" approach to implement FFPSA to create a different experience with family preservation services.¹⁰ This approach allows community-based providers to offer services to struggling families and seek reimbursement from DFPS without needing to report suspected abuse or neglect. The significant change with a Community Pathways approach would be that more families at risk of any CPS involvement can receive help quickly without requiring an investigation that exposes them to the threat of being separated and having their child placed in foster care.

BUDGET RECOMMENDATION: Commission a diverse stakeholder workgroup, similar to the process outlined in SB 1575 (87R), to explore effective ways for Texas to leverage FFPSA to decrease DFPS investigations while still supporting struggling families.

Build on assets in Texas' existing family preservation services

Efforts to understand the range of services across Texas that would qualify as evidence-based family preservation services under FFPSA (i.e., on the Title IV Prevention Services Clearinghouse) have been “piecemeal” and “informal,” according to the report the Legislature commissioned from Texas A&M University through SB 910.¹¹ To make the most of FFPSA implementation in Texas, state leaders need a more complete, cross-system picture of family preservation services available to Texas children and families – including any barriers to these services – so leaders can continue to build on existing strengths.

BUDGET RECOMMENDATION: Require HHSC, TJJD, and DFPS to contract with an institution of higher education to develop a family preservation services asset map.

Endnotes

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10. Casey Family Programs. (2022, October 31). *Community pathways*. Retrieved November 4, 2022, from <https://www.casey.org/community-pathways-familyfirst/>.
11. *Supra note 7.*

Appendix

What is FFPSA, and What Passed Last Session?

FFPSA, a federal Republican-led initiative that passed as part of the Bipartisan Budget Act of 2018, created new opportunities to maximize states' investment in family preservation services across the country. FFPSA allows states to draw down a federal match for evidence-based services provided to children at imminent risk of entering foster care or their caregivers that are proven to support mental, reduce substance use, or strengthen parenting.

In 2021, the Legislature enacted three bills related to FFPSA implementation:

- HB 3041 (87R) by Chair Frank established new Family First Pilots;
- SB 1896 (87R) by Chair Kolkhorst directed CPS to serve more families with evidence-based programs eligible for a federal match under FFPSA; and
- SB 910 by Senator Schwertner required a report outlining recommendations for improving family preservation services in Texas.

The Family First pilots, which began serving children and families in October 2022, will end before September 2023, so legislators must make budget and policy decisions before the pilots are completed and evaluated. And because the pilots are slated to run for less than a year, Texas leaders may never get a full picture of their effectiveness. Through these pilots, families may access evidence-based family preservation services when a DFPS investigation determines that a caregiver's action or inaction causes a continuing danger to a child's physical health or safety and a court orders that the child and their family will receive services aimed at keeping the family together and avoiding foster care while the child continues to live at home.

To implement FFPSA directives under SB 1896, DFPS decided to build off of two existing programs intended to prevent abuse or neglect or keep children out of foster care: Family Based Safety Services (FBSS) and Prevention and Child Wellbeing (PCW), formerly referred to as Prevention and Early Intervention (PEI). FBSS offers family preservation services that are not necessarily evidence-based to children and families when a child is at risk of entering foster care following a DFPS investigation. PCW contracts with community-based providers to offer voluntary, evidence-based services that prevent children from experiencing abuse and neglect. Many evidence-based programs PCW contracts for are eligible for a federal match under FFPSA to keep children out of foster care. So per SB 1896's instruction to transition FBSS services to evidence-based programs eligible for a federal match under FFPSA, DFPS added more slots to existing PCW contracts to serve some of the children and families who are participating in FBSS.

SB 910 by Senator Schwertner resulted in a report written by DFPS in collaboration with Texas A&M University, which included several important recommendations related to family preservation broadly and FFPSA implementation specifically. One key FFPSA recommendation is ensuring populations who would benefit but may not be eligible under current policy be included in future FFPSA implementation efforts. Another key FFPSA recommendation is to do a statewide, cross-system asset map to help Texas understand what family preservation services are available across Texas and whether those services can be accessed by the families who need them.

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