



# Family First Prevention Services Act: Judicial and Legal Practice Considerations

## *Transition from Foster Care*

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# Housekeeping

- CLE credit information
- We welcome questions throughout session



# Agenda

1. Introduction

2. Reunification Services

3. Older Youth Supports

Family First Act  
overview



Colorado  
implementation



Relevant  
considerations

# Family First Prevention Services Act

Pub. L. 115–123  
(part of Bipartisan  
Budget Act of  
2018), enacted  
Feb. 9, 2018

# Family First Act Intent



Reduce	Reduce foster care entries through increased use of prevention services
Prioritize	Prioritize placement in a foster family home, preferably with kin
Limit	Limit the use of group care settings based on specific needs
Support	Support transitions out of foster care

# Reunification Services Review



- Expands the period a family can receive reunification services under federal Title IV-B → much smaller pot of federal funding
- States can access funds for reunification services for up to 15 months after the child returns home
- Title IV-B funds may be for services including (not limited to): counseling, substance use treatment, assistance to address domestic violence, peer mentoring, visitation, and transportation

# Colorado Implementation



- Importance of the timeline and how we think about return home vs. case closure.
- Separate but related: 6 months of aftercare services when a youth leaves a QRTP setting.



# Colorado Post-Reunification Support



- Consider supports available in the community:
  - Community Centered Boards
  - Community Mental Health Centers
  - The Arc network
  - Independent Living Centers
  - Division of Vocational Rehabilitation
  - School-based supports
  - Medicaid waivers for home and community-based services
  - Support groups and peer services



The Family First Prevention Services Act of 2018 (Family First Act or Family First) significantly changes how the child welfare system is funded and operates. Prioritizing the importance of children living with families, Family First includes a number of provisions related to prevention services, foster care placement, and transition from care.

#### Purpose

In 2019, the American Bar Association Center on Children and the Law surveyed over 500 legal professionals about what they needed to better understand and implement the Family First Act. Most respondents (84%) said they would like an overview of the Act and clearer information about how it affects legal practice.

This Family First legal guide seeks to meet that request. It is designed to help attorneys, judges, magistrates, and court personnel:

- understand how the Family First Act changes federal child welfare law;
- identify opportunities to use the Act in legal advocacy and judicial decision making; and
- support implementation in a way that best serves children and families.

#### Organization

The guide is organized chronologically following a family's potential involvement with the child welfare system. That chronology is grouped in three sections with additional provisions in a fourth section. Additional resources are included in four appendices.

#### Part I: Before a Petition is Filed, 3

- a. Prevention Services, 3

#### Part II: After a Petition is Filed and a Child or Youth is in Foster Care, 9

- a. Family-based substance use treatment setting with parent, 9
- b. Foster family home setting and kinship services, 13
- c. Group setting, 18

#### Part III: During a Child or Youth's Transition from Foster Care, 30

- a. Reunification services for the family, 30
- b. Older youth supports, 32

#### Part IV: Assorted Sections, 35

#### Appendices, 37

- A. Timeline of Effective Dates of Family First Act Provisions, 37
- B. State Definitions of "Candidate for Foster Care," 38
- C. Table of Federal Laws and Family First Act Provisions, 40
- D. Additional Resources, 42

# ABA Legal Guide

## Purposes:

1. To understand how the Family First Act changes federal child welfare law;
2. To identify opportunities to use the Act in legal advocacy and judicial decision making; and
3. To support implementation in a way that best serves children and families.

[https://www.americanbar.org/content/dam/aba/administrative/child\\_law/family-first-legal-guide.pdf](https://www.americanbar.org/content/dam/aba/administrative/child_law/family-first-legal-guide.pdf)

# Selected Considerations for County/City Attorney



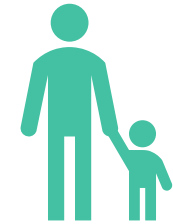
- As with all services, ensure the agency is providing reunification services tailored to the needs of the family. Not all families need the same assistance.
- Ensure reunification services begin promptly, continue during the child's time in foster care, and extend for up to 15 months after reunification is achieved.

# Selected Considerations for GAL/Child Counsel



- For families that would benefit from 15 months of post-reunification services, advocate with the agency and court, as necessary, for the family to receive that support.
- When necessary, argue to the court that by not providing a reunified child and family with appropriate services, the agency is not making mandated reasonable efforts to achieve permanency.

# Selected Considerations for Respondent Parent Counsel



- In cases in which the child can safely return, but the agency is waiting to see if “something changes,” emphasize that service providers will be working with the family to support them through any unforeseen situations.
- Work with your clients to encourage use of services and to address access barriers. Incorporate social worker and peer advocate members of a multidisciplinary legal team where those resources exist to help access services.

# Selected Considerations for Judicial Officer



- Determine whether reunification services are being provided, especially services related to substance use treatment, counseling, domestic violence, peer mentoring, visitation, and transportation. If not, seek information about barriers to those services.
- Make clear that parties need not wait until the next scheduled hearing for a child to return home if safety risks have been addressed. Indicate whether a motion for an accelerated hearing is needed for reunification to occur or if no notice to the court is required.



# Legal Community Support for Implementation

- Learn how your state allocates its IV-B resources.
- Consider with other stakeholders what opportunities exist to use IV-B resources to expand or complement existing Family Reunification Services.

# Transition-Aged Youth Review



- Option to extend age of eligibility for Chafee independent living services to 14-23
- Option to extend age of eligibility for Education and Training Vouchers (ETVs) from 14-26, for 5 years total
- Did not provide additional federal funding for states to extend Chafee services and ETVs
- Youth exiting care must also be provided documentation that they were in foster care (any out-of-home care setting)
- Expansions to National Youth in Transition Database



# Colorado Implementation



## Foster Youth in Transition Program (HS21-1094)

- Support youth transitioning from foster care to successful adulthood

# Colorado Implementation



## Eligibility

- **Age:** 18-21 years old
- **Placement History:** on or after 16<sup>th</sup> birthday, youth was:
  - In foster care, or
  - In non-certified kinship care & adjudicated D&N, or
  - Committed to DYS & was in a nonsecure placement while in DYS custody

# Colorado Implementation



## Engagement by the Youth

- Engaged in or intend to engage in:
  - Education
  - Vocation
  - Employment
  - Promote/Remove Barriers to Employment

## Expectations for the Youth

- Financial contribution based on ability to pay

# Colorado Implementation



Two ways to open a youth in transition case:

- (1) Transition from D&N case
- (2) Re-Entry

# Colorado Implementation



## (1) Transition from D&N case

- At age 18.5, youth shall transition to a Youth In Transition case UNLESS
  - The youth chooses to emancipate from the system, or
  - The youth transitions to the adult services system

# Colorado Implementation



## (2) Re-Entry Youth

- Enter into a Voluntary Services Agreement with the county for up to 90 days
- A Youth in Transition Petition is filed no later than 90 days after a Voluntary Services Agreement is entered

# Colorado Implementation



## Reviews and Permanency Hearings

- Periodic Reviews are held every six months and include review of the youth's Roadmap to Success
- Permanency Planning Hearings will be held every 12 months

# Selected Considerations for County/City Attorney



- Ensure agency staff inform youth who are exiting foster care of documents they should have before they exit care and provide those documents.
- Ensure youth begin youth-centered transition planning at age 14 and are aware of all available services and supports, including those through the Chafee and ETV programs.

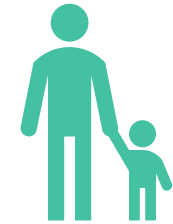


# Selected Considerations for GAL/Child Counsel



- Inform clients about services, programs, and benefits for which they might be eligible and assist the youth or young adult to enroll in and receive all available supports.
- Advocate for a case plan individualized to the youth's needs and that includes active and meaningful engagement of the youth in developing the plan.
- Ensure youth receive the required documentation upon exiting foster care and understand their rights related to the Foster Youth Transition Program.

# Selected Considerations for Respondent Parent Counsel



- In Youth in Transition cases, parents are not named as respondents and are not parties to the case
- Be aware of the procedures involved with transition youth, e.g.:
  - Procedures when a youth aged 16-18 is in department custody and runs away
  - Considerations for assisting a parent in having a child determined incapacitated pursuant to 15-14-102
  - Understanding the purpose of a transition hearing

# Selected Considerations for Judicial Officer



- Meaningfully engage youth in legal hearings to learn what Chafee and other program services they are being offered, what other resources they want, their interests, and their plans for the future. Enter relevant orders to help youth achieve those goals.
- Ensure that youth-centered transition planning begins at age 14 and that youth exiting foster care have all necessary documents.



# Legal Community Support for Implementation

- Partner with youth in implementing these and related provisions and ensure meaningful engagement of those with lived experience in system reform.
- Use these provisions to reemphasize other federal requirements on supporting youth in their transition to adulthood and ongoing permanency.

## Learn More: Colorado

- ❖ Bench Card on re-entry coming soon!
- ❖ [OCR HB21-1094 FAQ](#)
- ❖ [HB21-1094](#) as enacted
- ❖ <https://co4kids.org/judicial-and-legal-community>

# Learn More: National

- ❖ ABA Center on Children and the Law resources
  - [Legal Guide & Tool for Engaging the Legal Community](#)
- ❖ [\*Leveraging the FFPSA for Older Youth: Improving Transitions\*](#), Jennifer Pokempner (2019)
- ❖ [\*Priorities on Older Youth Successful Transition to Adulthood\*](#), National Foster Youth & Alumni Policy Council (2020)
- ❖ [\*Family First Implications for Youth Homelessness\*](#), National Network for Youth & ChildFocus (2019)
- ❖ [\*Implementing the Family First Prevention Services Act\*](#): Nearly 200 pages of FAQs!

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