



NEW MEXICO LEGISLATURE

**FAMILY FIRST
PREVENTION SERVICES ACT
SUBCOMMITTEE**

2018 INTERIM FINAL REPORT

LEGISLATIVE COUNCIL SERVICE
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INTERIM SUMMARY

Family First Prevention Services Act Subcommittee 2018 Interim Summary

The New Mexico Legislative Council created the Family First Prevention Services Act Subcommittee in the 2018 interim to provide guidance to the Children, Youth and Families Department (CYFD) regarding the federal Family First Prevention Services Act (FFPSA). The subcommittee met for three days, during which it heard from several different speakers and received presentations related to child welfare and how the state can use the FFPSA to augment current spending. All of the meetings took place in Santa Fe.

On the first day, the subcommittee received an overview of the FFPSA and responses to it by other states. The FFPSA was passed and signed into law as part of the federal Bipartisan Budget Act of 2018 on February 9, 2018. This legislation responded to the increasing number of children in foster care and the fact that the primary reason that many children enter foster care is neglect.

The FFPSA changed federal funding of child welfare and foster care placement, providing funding under Title IV-E of the federal Social Security Act for evidence-based programs for children at risk of entering foster care, pregnant and parenting youth in foster care and parents or caregivers. These prevention services and programs must be evidence-based and promising, supported or well-supported to qualify for reimbursement. The FFPSA also encourages states to establish procedures and programs for appropriate placements in foster care, whether that is placing a child in foster care with the child's parent in a licensed residential family-based treatment facility or placing an eligible youth in a qualified residential treatment program. Finally, the FFPSA funds initiatives that promote safety, permanency and well-being. These initiatives include funding kinship navigator programs; developing new foster parent licensing standards; developing statewide plans to track and prevent child abuse and neglect fatalities; providing grants to states to expand and use an electronic interstate case processing system; reauthorizing the federal Adoption and Legal Guardianship Incentive Payments Program; and using regional partnership grants from the National Center on Substance Abuse and Child Welfare to help children of parents or caregivers affected by heroin, opioids or other substance abuse.

Representatives from the CYFD informed the subcommittee that the department had met all FFPSA deadlines and was in the process of issuing a request for proposals for programs that meet the FFPSA requirements in accordance with federal time lines. A CYFD representative noted that there are more than 2,000 children in 900 foster homes in New Mexico and said that the CYFD would like to increase the number of foster homes to 1,300. The CYFD representative stated that the department is generally working to comply with the FFPSA requirements to receive federal funding under Title IV-E and that it is working with existing facilities and community agencies to receive federal funds.

On the second day, the subcommittee received presentations on implementing the FFPSA and maximizing federal assistance to families. The subcommittee learned that New Mexico is the state with the highest number of "short stayers" in the nation and that while these lengths of

stay in foster care may be short, the effects they can have on children is significant. The subcommittee also heard that child removal in the state is done by law enforcement officers, not CYFD caseworkers. The presenters noted that any separation of a child from the child's family can have a traumatic effect on the child. Regarding entry into foster care, neglect and parental substance abuse are the primary reasons, and Title IV-E funding under the FFPSA for prevention services can address these issues by providing parental substance abuse treatment, mental health treatment and parenting skills programs. The subcommittee also heard testimony that the state has a lower than average percentage of children placed in kinship care and that FFPSA funding could be used to promote kinship care and kinship navigator services. A CYFD representative explained that to effectively manage the current caseload and effectively implement programs required by the FFPSA, the department would need to hire an additional 100 social workers, which the department has included in its budget request. The Legislative Finance Committee (LFC) reiterated the potential for FFPSA funding, noting that only 7% of funding for child protective services is spent on evidence-based prevention programs.

On the third and final day, the subcommittee received presentations on federal substance use disorder services grants and their potential for state FFPSA implementation. The subcommittee received information on related federal legislation: the Child Abuse Prevention and Treatment Act (CAPTA), which requires states to have regulations and policies to notify child protective services of children born with substance addiction or withdrawal symptoms; the Comprehensive Addiction and Recovery Act of 2016, which amended the CAPTA and required states to develop monitoring systems regarding the safe delivery of services to affected newborns; and the 2018 federal opioid package, which provides funding to support state efforts to address the opioid crisis. The subcommittee heard that other states are taking action in working with these federal acts and the FFPSA and that the FFPSA provides an opportunity for long-range planning, implementation and oversight. The subcommittee also received a presentation on the process of removal of children in other states, including the role of law enforcement and effects on short-stayers.

LFC representatives presented further data on the CYFD budget, noting that \$85.5 million of the 2018 CYFD welfare spending was spent on foster care and adoption programs. An LFC representative stated that child welfare investments are costly and that these investments are likely to grow, as child maltreatment rates have climbed by 28% over the last five years. Nevertheless, the LFC representative reiterated that the state is in a great position to expand preventive services because as of fiscal year 2016, there were 1.7 preventive services received per 1,000 children. Further, an LFC representative recommended several prevention and early intervention programs that have a demonstrably positive return on investment.

Concluding the meetings, Senator Cisco McSorley, co-chair, called for requests from members, participants and the audience to be included in a report to the legislature and the governor-elect.

AGENDAS AND MINUTES

Revised: November 21, 2018

**TENTATIVE AGENDA
for the
FIRST MEETING
of the
FAMILY FIRST PREVENTION SERVICES ACT SUBCOMMITTEE**

**November 19, 20 and 27, 2018
State Capitol, Room 315
Santa Fe**

Monday, November 19

- 10:00 a.m. **Call to Order: Welcome and Introductions**
—Representative Doreen Y. Gallegos, Co-Chair, Family First Prevention
Services Act Subcommittee (FFPSA)
—Senator Cisco McSorley, Co-Chair, FFPSA
- 10:15 a.m. (1) **Overview of the Family First Prevention Services Act; State Response**
—Susan Robison, Director of State Relations, Casey Family Programs
(CFP)
—Annamarie Luna, Deputy Director, Children's Programs, Protective
Services Division (PSD), Children, Youth and Families Department
(CYFD)
—Bryce Pittenger, Director, Behavioral Health Services Division (BHSD),
CYFD
—Kristin Jones, Deputy Director, BHSD, CYFD
—Lillian Rainer, Bureau Chief, Licensing and Certification Authority
Bureau (LCA), CYFD
- 12:30 p.m. (2) **Public Comment**
- 1:00 p.m. **Recess**

Tuesday, November 20

- 10:00 a.m. **Reconvene: Welcome and Introductions**
—Representative Doreen Y. Gallegos, Co-Chair, FFPSA
—Senator Cisco McSorley, Co-Chair, FFPSA

- 10:15 a.m. (3) [Next Steps in Implementing the FFPSA and Maximizing Federal Assistance to Families](#)
—Susan Robison, Director of State Relations, CFP
—Bryce Pittenger, Director, BHSD, CYFD
—Karla Young, Bureau Chief, Research Assessment and Data Bureau, CYFD
—Valerie Sandoval, Administrative Deputy Director, PSD, CYFD
—Kristin Jones, Deputy Director, BHSD, CYFD
—Lillian Rainer, Bureau Chief, LCA, CYFD

12:30 p.m. (4) [Public Comment](#)

1:00 p.m. **Recess**

Tuesday, November 27

- 10:00 a.m. **Welcome and Introductions**
—Representative Doreen Y. Gallegos, Co-Chair, FFPSA
—Senator Cisco McSorley, Co-Chair, FFPSA

- 10:15 a.m. (5) [Federal Substance Use Disorder Services Grants and Their Potential for State FFPSA Implementation](#)
—Nina Williams-Mbengue, Program Director, National Conference of State Legislatures
—Bryce Pittenger, Director, BHSD, CYFD
—Cynthia Chavers, Bureau Chief, Federal Reporting Bureau, CYFD
—Valerie Sandoval, Administrative Deputy Director, PSD, CYFD
—Kristin Jones, Deputy Director, BHSD, CYFD
—Lillian Rainer, Bureau Chief, LCA, CYFD
—Jon Courtney, Ph.D., Program Evaluation Manager, Legislative Finance Committee (LFC)
—Kelly Klundt, Fiscal Analyst, LFC

12:30 p.m. (6) [Public Comment](#)

1:00 p.m. **Adjourn**

**MINUTES
of the
FIRST MEETING
of the
FAMILY FIRST PREVENTION SERVICES ACT SUBCOMMITTEE**

**November 19, 20 and 27, 2018
State Capitol, Room 315
Santa Fe**

The first meeting for the 2018 interim of the Family First Prevention Services Act (FFPSA) Subcommittee was called to order on November 19, 2018 by Representative Doreen Y. Gallegos, co-chair, at 10:11 a.m. in Room 315 of the State Capitol.

Present

Rep. Doreen Y. Gallegos, Co-Chair
Sen. Cisco McSorley, Co-Chair
Rep. Rebecca Dow (11/19, 11/20)
Sen. Linda M. Lopez
Sen. Gerald Ortiz y Pino
Rep. Elizabeth "Liz" Thomson (11/19, 11/20)

Absent

Rep. Javier Martínez
Sen. Bill B. O'Neill

(Attendance dates are noted for those members not present on all three meeting days.)

Staff

Michael Hely, Staff Attorney, Legislative Council Service (LCS)
Chris Pommier, Staff Attorney, LCS
Celia Ludi, Staff Attorney, LCS
Randall Cherry, Staff Attorney, LCS
Mark Peralta-Silva, Staff Attorney, LCS
Karen Wells, Contract Staff, LCS
Erin Bond, Research Assistant, LCS

Minutes Approval

Because the subcommittee will not meet again this year, the minutes for this meeting have not been officially approved by the subcommittee.

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file.

Monday, November 19

Call to Order and Introductions

Representative Gallegos and Senator McSorley made welcoming comments. Subcommittee members and staff introduced themselves.

Overview of the FFPSA: State Response

Susan Robison, director of state relations, Casey Family Programs (CFP); Annamarie Luna, deputy director, Children's Programs, Protective Services Division (PSD), Children, Youth and Families Department (CYFD); Bryce Pittenger, director, Behavioral Health Services Division (BHSD), CYFD; Kristin Jones, deputy director, BHSD, CYFD; and Lillian Rainer, bureau chief, Licensing and Certification Authority Bureau, CYFD, joined subcommittee members to discuss the state response to the FFPSA.

Ms. Robison described the role of CFP, noting it is the largest foundation in the country devoted to improving child welfare. A chief role of CFP is, specifically, working with states to help states understand the opportunities and challenges arising as a result of passage of the FFPSA. She described the growing percentage of children in foster care and the primary reasons for this increase. Nationally, neglect as well as parental substance abuse, particularly opioid addictions, head the list. She stated that ensuring the safety, permanency and well-being of children and their families is the primary goal of child welfare. The FFPSA was passed into law as part of the Bipartisan Budget Act on February 9, 2018. The act provides federal child welfare funding for foster care, prevention and permanency, including money for prevention services for parents and kinship caregivers. Funding for foster care placements is dependent upon quality and appropriate settings. Funding for prevention activities allows states to receive open-ended entitlement funding for evidence-based prevention services. Children at imminent risk of placement in foster care; pregnant and parenting youth in foster care; and parents or kinship caregivers are eligible to receive funds.

The FFPSA specifically identifies new funding for prevention, including mental health and treatment services, substance abuse prevention and treatment and in-home services to teach parenting skills. Funding can be used for reunification of children and their families or to prevent children from entering the foster care system. Evidence-based practice requirements are specified in the FFPSA. In order to receive prevention funding, states must demonstrate that they have well-supported programs with outcomes that occur for at least a 12-month period. Beginning October 1, 2019, federal financial participation (FFP) for funding is at 50%. The state is also allowed to obtain 50% federal funding for administrative costs. Beginning October 1, 2026, the FFP will be the same as a state's federal Medicaid assistance percentage (FMAP) rate, which is currently 72.26% in New Mexico. Ms. Luna noted that the CYFD is in the process of issuing a request for proposals (RFP) for programs that meet the requirements of the FFPSA.

Ms. Robison noted that reimbursement for eligible services under Title IV-E of the Social Security Act (Title IV-E) will begin on October 1, 2019. These funds are intended to augment,

not supplant, current funding for prevention services. There is a maintenance of effort (MOE) requirement that will be set at fiscal year (FY) 2014 spending levels for these same prevention services for candidates for foster care. Ms. Robison described the congressional intent for determining who qualifies as a candidate for foster care. These guidelines are not in the FFPSA but reflect congressional intent.

Questions and comments by subcommittee members regarding the prevention aspects of the FFPSA were as follows:

- whether abuse and neglect must be substantiated before funds can be made available: this is not addressed in the federal law, which leaves the states responsible for determining those parameters;
- recognition of the importance of the definition of eligibility for services: Ms. Luna clarified that the CYFD is currently implementing a new safety and risk assessment process that will allow more flexibility in accessing federal funds;
- whether the CYFD has met all deadlines required by the FFPSA on a timely basis: yes; documentation can be provided;
- acknowledgment that programs that currently exist in New Mexico that meet the FFPSA standards may be selected for federal funding;
- recognition that funding under Title IV-E is open-ended and flexible;
- whether the CYFD can identify the amount of money currently being spent under Title IV-E: yes;
- clarification regarding the reimbursement for prevention services under the FFPSA: in 2026, the federal funding will be at the Medicaid FMAP rate; and
- whether states have the ability to enter and leave the program if, at times, state funding for the match is not available: possibly; however, the state will still need to meet the MOE.

Ms. Robison then identified the second "bucket" funds within the FFPSA, which are dedicated to ensuring appropriate placements in foster care. The eligibility requirements are the same as are currently required for foster care placement, with the additional requirement that a foster family home not exceed six children. Beginning in October 2018, foster care maintenance payments can be made on behalf of a child in foster care in a licensed residential family-based treatment facility. As early as October 1, 2019, Title IV-E federal support will be available for foster care maintenance in a qualified residential treatment program (QRTP), which is a strictly defined term in the law, the requirements of which represent a big change for New Mexico.

Ms. Robison described additional select items to promote safety, permanency and well-being of foster children. Funding will be available at the rate of a 50% match for evidence-based kinship navigator programs. Another provision is a requirement that the United States Department of Health and Human Services (HHS) develop licensing standards for foster parents, and states choosing to abide by these standards will be required to justify the deviation. States will be required to develop statewide plans to track and prevent child abuse and neglect fatalities.

New grants will be available to states to expand development of electronic systems to expedite interstate placement of foster children. Adoption assistance and legal guardianship incentives are reauthorized by the FFPSA through federal FY 2022. Child welfare funding for Title IV-E programs and services are reauthorized until federal FY 2121.

Questions and comments by subcommittee members regarding the foster care aspects of the FFPSA were as follows:

- whether New Mexico has any licensed residential treatment centers: yes; the Santa Fe Recovery Center qualifies now and a center in Carlsbad is working on certification;
- whether the unmet need for foster care is known: there are currently 2,006 children in 900 foster homes; the CYFD would like to increase the number of foster homes to at least 1,300 homes;
- recognition that the current amount of money paid to foster parents is not adequate to meet their needs;
- whether parents of kinship caregivers who are not formal foster families can utilize any of this funding for provision of mental health and other services: no;
- clarification that the CYFD is providing funds for non-covered services using state General Fund dollars in order to prioritize continued placement of children with families of origin;
- clarification regarding responsibility for payment of medical care: payment will come out of Medicaid funding;
- whether New Mexico has any QRTPs: the CYFD is working with existing facilities to meet the requirements to qualify as QRTPs;
- recognition that a qualified assessment for appropriate placement must be conducted by a neutral party: Ms. Pittenger admitted that this is a difficult requirement to meet;
- acknowledgment that tele-psychiatric capabilities may need to be utilized to meet the requirement of a neutral or independent assessment of the appropriateness of placement in a particular environment;
- acknowledgment that not all questions can be answered today, and many decisions still need to be made;
- a request for CFP to provide information regarding other states' approaches to meeting the requirements of the FFPSA;
- an observation that New Mexico could consider a waiver to address the needs of approximately 200 children who are currently in congregate living and 142 children who are currently housed out of state; however, this would result in a two-year delay in implementation of not only the foster care provisions but also the prevention provisions of the FFPSA;
- clarification regarding why some children are placed out of state: there are numerous reasons, including mental health issues, co-occurring disorders and autism;
- acknowledgment that federal funding is not necessarily aligned with long-standing priorities for foster care;

- clarification regarding barriers for implementing the FFPSA: the primary barrier is the challenge of keeping children in their home communities and the lack of community agencies that can meet the new federal standards; and
- whether New Mexico will receive a grant as provided for in the law to support recruitment and retention of foster families: yes, the CYFD has applied for a grant.

Ms. Luna and Ms. Pittenger highlighted initiatives already under way at the CYFD relative to the FFPSA. The CYFD is focusing on a two-generational system that involves a deeper array of wraparound services for children with behavioral health needs. Emphasis is on a coordinated system of community-based, trauma-responsive, evidence-based services. They described a much stronger collaboration between the BHSD, the PSD and the Human Services Department (HSD). Procedures have been changed to reflect requirements in the FFPSA relative to children aging out of foster care. Ms. Luna noted that the enactment of the FFPSA has delayed implementation of changes under way at the CYFD to promote adoption of children in foster care. Instead, priorities have been refocused toward children eligible for Title IV-E funding. Children not eligible for funding through the FFPSA will be funded with state General Fund dollars. Criminal record checks are now required for anyone caring for children in the foster care program, and regulations are being promulgated to accomplish this. The CYFD is doing all it can to ensure that children are being cared for by safe people and in safe environments. The CYFD has submitted a budget request to the Legislative Finance Committee (LFC) for an additional \$1 million to build community-based programs and facilities; to provide for care in alternative settings; and to become more trauma-responsive. Regulations will need to be changed to reflect the requirements of QRTCs and to match requirements for reimbursement under Medicaid. Ms. Robison noted that CFP is actively encouraging states to be proactive in any area in which they fear the new law might provide disincentives for facilities to accept children. She emphasized that there is a general approach in Congress to require evidence-based programs that can demonstrate research to support delivery approaches. Kelly Klundt, fiscal analyst, LFC, provided findings from LFC reports regarding anticipated savings of utilizing evidence-based programs over time. The LFC and the CYFD are committed to working together to make wiser funding requests that will benefit children and families and are in the best interest of the state General Fund.

Questions and comments by subcommittee members regarding the state's response to aspects of the FFPSA were as follows:

- whether any steps have been taken to evaluate programs in regard to adverse childhood experiences (ACEs) score mitigation: yes; there is a way to measure whether programs have reduced ACEs scores;
- recognition that ACEs scores for children in CYFD protective care or in juvenile justice systems are extremely high;
- whether there are evaluations or programs that will prevent escalation of ACEs scores: this is included in the CYFD evaluation and monitoring process;

- recognition that the FFPSA requires a focus on children under the age of three who are at risk, and the FFPSA requires the identification of at-risk child care interventions to prevent escalation of problems;
- acknowledgment that the process to apply for home visiting is burdensome;
- whether Medicaid can provide data to help identify children at risk: yes;
- acknowledgment regarding the importance of addressing not only the needs of at-risk children but also the need to link the services needed by parents;
- whether caseloads that are too heavy will impair implementation of the elements of the FFPSA: yes; the ability to hire and retain case workers is very challenging; training and good supervision are vital;
- whether mental health counseling is useful for families at risk: no; basic needs must be met before therapy will be useful; programs must deal with the social determinants of health first;
- recognition that New Mexico has a shortage of affordable housing; New Mexico needs to focus on addressing that need with enhanced government incentives for builders;
- a suggestion for legislation to offer a prenatal and post-natal package of services under Medicaid;
- an observation that individual rapport developed with at-risk families is often more important than evidence-based programs; and
- whether children who are not yet "in the system" are aided by the FFPSA: the prevention elements of the law are intended to keep children out of the system.

Public Comment

Arika Sanchez, New Mexico Can, complimented the CYFD and the legislature for their work in this area. She noted that the FFPSA provides an opportunity for older youth to be served by appropriate, family-based programs. She encouraged the members to extend foster care eligibility to age 21. She stressed the importance of providing parents with parenting skills.

Marcy Oliver, foster parent, noted that she and her partner currently have eight foster children in their home, with a ninth child to come in December. She highlighted the Attachment Healing Center program as a vitally important program in serving these children. She also encouraged the expansion of foster care eligibility to age 21. She is part of a group known as New Mexico Foster Parents Working Together. The group works to develop strong collaborative teamwork with the CYFD. Ms. Oliver raised some problems with the goal of keeping foster children attending their schools of origin.

There being no more public comment, the meeting recessed at 1:33 p.m.

Tuesday, November 20

Representative Gallegos reconvened the meeting at 10:04 a.m. Subcommittee members and staff introduced themselves.

Next Steps in Implementing the FFPSA and Maximizing Federal Assistance to Families

Ms. Robison; Ms. Pittenger; Karla Young, bureau chief, Research Assessment and Data Bureau, CYFD; Valerie Sandoval, administrative deputy director, PSD, CYFD; Ms. Jones; Wayne Lindstrom, director, BHSD, HSD; and Ms. Rainer joined the subcommittee for discussion regarding implementation of the FFPSA. Senator McSorley commented that the LFC created a 300-page report on this topic, and he asked whether there is an executive summary for the report. Senator McSorley requested that Ms. Robison and the authors of the LFC report join the National Conference of State Legislatures (NCSL) at the November 27, 2018 meeting. He invited the CYFD and the HSD to invite additional colleagues to join the meeting, as well.

Ms. Robison began by describing the data provided in handouts that reflect a slight downward trend in New Mexico in recent years relative to children in care. Trends regarding prevention show increases in New Mexico in the percentage of children screened in for assessment; the number of children identified as involved in a substantiated report of maltreatment; and the number of children entering care. Ms. Luna noted that the new safety and risk assessment should address the high rate of children being maltreated. New Mexico's data regarding the reasons for entry into care is similar to those in other states; neglect and parental substance abuse remain the main reasons for children entering care. Ms. Robison noted that prevention services funded through the FFPSA that can address these trends include parental substance abuse treatment, mental health treatment and parenting skills services. CFP estimates that expansion of parenting skills services would have a large impact in New Mexico and could be identified as a priority. Ms. Robison noted that the number of children in congregate care in New Mexico is lower than other states. New Mexico is the highest in the nation for short-stayers in care; over one-third of children who enter care in New Mexico return home within one week. Whenever a child is removed from the home, it causes trauma and can have a lasting impact. Ms. Robison noted that in most states, law enforcement has the authority to remove a child from a home in an emergency. In New Mexico, law enforcement is the only authority that can remove children. She surmised this might be driving the trend of short-stayers, and she encouraged New Mexico to consider ways to address the situation. She further encouraged the subcommittee to explore the adequacy of training of law enforcement officers with this responsibility. Ms. Robison advised the subcommittee that funding for prevention services through the FFPSA could also help New Mexico address issues such as this. She then described data regarding placement types in New Mexico, including foster care, kinship care and congregate care, including kinship navigator services, which the FFPSA can also help to support. The state has a lower-than-average percentage of placements in kinship care.

Subcommittee members had questions and comments as follows:

- whether the subcommittee can see copies of the draft safety and risk assessment: yes; the CYFD will provide that;
- whether homelessness itself is a sufficient reason for children to be removed from parental care: no; other factors would need to be considered;

- whether the data regarding short-stayers reflects placement with relatives and whether relatives are paid for foster care services: the data is reflected, and it is possible to pay for these temporary placements;
- whether the CYFD is in agreement with CFP's assessment regarding the damage done by short-term stays in care: the CYFD agrees this does create great trauma for the children;
- whether CFP has model legislation that it can share: no; however, it does study the trends carefully;
- recognition that in New Mexico, regulations address the removal of a child in an emergency;
- an observation that there are children who are released to families in emergency situations who are never entered into the foster care system: many of these families fall through the cracks and never receive state support for the care of these children; the CYFD commented that an investigation is conducted in those situations, and the families may receive some reimbursement;
- a suggestion that the NCSL be asked in advance of the November 27 meeting to bring model legislation on this topic, if available;
- Cliff Reese, former staff to Senator Michael Padilla, noted that the legislature considered a bill in 2017, Senate Bill 19, addressing foster care by other family members, but that bill was vetoed;
- an observation that it is a goal of the CYFD to identify children who are at risk before there is an emergency;
- whether there is national research that indicates the impact of short stays on other aspects of childhood trauma: CFP has not found research on this topic, but anecdotal evidence suggests it is harmful;
- whether there is a correlation between driving while intoxicated (DWI) arrests and removal of a child from the home: Dr. Lindstrom noted that New Mexico has the highest percentage of deaths related to alcohol in the nation, and the subject is far bigger than DWI alone;
- an observation that data probably underestimates the number of children in foster care if the data does not include children placed with family members: the CYFD agrees, but it encourages staff to look for family members for placement, when possible;
- an expressed desire that more robust investigation and intervention be provided to families prior to returning a child to the child's home of origin, and follow-up visits and services should be provided when a child is reunited;
- the CYFD noted that future safety plans will require substantial follow-up prior to closing a case;
- whether the data reveals all cases investigated: it covers all cases that were screened in, but not those that were not screened in;
- clarification regarding the number of additional social workers needed in the CYFD to manage the caseload: the CYFD budget request includes a request for 100 additional social workers; additionally, it was noted that caseworkers in the CYFD are

- paid much less than those in other settings, such as the managed care organizations (MCOs);
- whether the trend of short stays is related to the shortage of foster homes in the community: possibly;
 - clarification regarding collaboration with care coordination in Centennial Care: Centennial Care 2.0 allows the MCOs to delegate care coordination to providers;
 - recognition of the importance of the home visiting program as a prevention measure;
 - clarification that many states have utilized guardianship assistance programs to help with kinship navigator services;
 - an observation that grandparents and other kinship caregivers could be helped to obtain licensure;
 - a request for the CYFD to specifically identify the total budget needed to completely address this issue, as funding is expected to be available in 2019;
 - recognition that background checks are required for foster care in the FFPSA, and if kinship families are chosen without this step, FFPSA funding would not be available;
 - an observation that there is no requirement for background checks to receive funding for prevention services;
 - an observation that peer support for substance abuse can be more important than medically assisted treatment in helping families regain custody of their children: New Mexico will be reimbursing for peer support through Medicaid beginning January 1, 2019; and
 - an observation that many prevention services are already covered under Medicaid, and at a higher match rate, and that the Medicaid avenue should be utilized.

Ms. Pittenger provided a behavioral health services report highlighting the LFC data, the child and adolescent needs and strength information and information regarding the infant mental health clinical treatment services. She also discussed adolescent substance abuse reduction efforts and life skills support services. Ms. Jones provided demographic information regarding shelter care services statewide and, in particular, to Native Americans. ACEs scores by county were identified. Approximately 47% of children being served in shelters have mental health disorders, and nearly 30% are on psychotropic medications, which create additional challenges in serving them. Ms. Rainer told the subcommittee that the CYFD has the ability to house residents up to the age of 21 in shelters.

Ms. Rainer reviewed licensing and certification efforts that are under way to bring regulations into compliance with FFPSA requirements. Definitions for QRTPs and trauma-informed treatment are being formulated. Qualified individuals are being identified. Procedures for fingerprinting, admissions, treatment planning, 60-day court reviews and discharge planning are being included

Questions and comments from subcommittee members regarding behavioral health and shelter care services were as follows:

- whether youth are able to choose a shelter care facility or whether a shelter facility is assigned to them: it is assigned;
- clarification regarding the average length of stay in shelter care: not known;
- whether there are shortages of shelters: there are a couple of areas in the state where there are shortages, but the CYFD prefers funding alternatives to shelter care, as shelter care is not the most therapeutic setting;
- clarification regarding the number of unlicensed shelters: a number of unlicensed shelters have been identified; however, the exact number is not known;
- an observation that the state has no jurisdiction over undocumented immigrants in shelter care;
- clarification regarding the reasons a child is sent out of state for services: this happens when New Mexico cannot meet that child's needs;
- an observation that the CYFD is working with rural providers in New Mexico to try to keep children closer to their families;
- an observation that in order to ensure a two-generational approach to service provision, it is essential for children and adult behavioral health systems to remain in close collaboration;
- whether there is a definition for "congregate care": "congregate care" is defined in the FFPSA;
- clarification regarding what congregate care means: it means services provided outside of a private home; and
- clarification regarding when ACEs data began to be collected by the CYFD: data collection began in approximately 2017.

Jon Courtney, program evaluator manager, LFC, and Ms. Klundt provided an overview of the LFC's *Results First* report on evidence-based programs that reduce child maltreatment. Mr. Courtney noted that not much money is being spent in New Mexico on preventive services for child protection. Only 7% of funding for child protective services is spent on evidence-based prevention programs. Overall, New Mexico is far behind the nation in this regard. He extolled opportunities through the FFPSA to address this, but reminded members that in the past the state has not fully availed itself of funding opportunities. He highlighted the average cost of child maltreatment that results in adoption. He noted that a focus on evidence-based prevention and intervention programs offers an alternative pathway to address this problem. He stressed the importance of evaluating data and research in making policy decisions. There are great opportunities to align state resources with federal funding under the FFPSA.

Ms. Klundt discussed the budgetary aspects of child maltreatment programs and identified specific requests made by the CYFD, noting that the requests do not directly relate to the funding opportunities through the FFPSA. Ms. Luna commented that a supplemental budget request will allow the CYFD to issue RFPs to implement programs through the FFPSA. Other funding requests have FFPSA funding opportunities embedded within them.

Questions from subcommittee members regarding the LFC report were as follows:

- clarification regarding funding available through Title IV-E versus the FFPSA: Title IV-E funding has been in place for years and is a long-standing funding stream for children in foster care; the FFPSA expands that funding stream to include more prevention services;
- clarification of why some programs that were begun were stopped without explanation, including a partnership with Home Builders: the CYFD is looking to restore the partnership with Home Builders;
- whether some programs can be restored without legislation: FFPSA funds can be used for reimbursement of prevention services, but not for assessments;
- an observation that there may be a need for a legislative framework to address the needs of children at risk, but for whom there has not been a substantiation of maltreatment; and
- a request for information on the total amount currently being spent for foster care and how much the funding available through the FFPSA could save state expenditures in the future: Mr. Courtney noted this information can be provided in detail.

Public Comment

Ms. Sanchez emphasized that a 48-hour hold on children and youth being considered for removal from the home creates trauma for children and their families and raises due process issues. She contends that law enforcement is removing children from homes where no emergent situation exists to justify removal.

Michele Coleman, Ph.D., Attachment Healing Center, stated that her organization works with at-risk children. Her approach to treatment takes one and one-half years to be successful. The center is working with the CYFD to expand access to this type of treatment. The center has requests from four organizations around the state to receive training in this treatment approach. The Attachment Healing Center is one of five organizations involved in peer support. The center also trains parents and children in treatment foster care services that show promise of success. She emphasized that for trauma-affected children, attachment issues must be resolved before the child can feel safe.

Ms. Oliver asserted that the cost to foster parents for interventions to address destructive behaviors is not covered by the foster care system. Interventions are very costly, she said, and they are being privately borne.

The subcommittee recessed at 1:38 p.m.

Tuesday, November 27

Welcome and Introductions

Senator McSorley reconvened the meeting at 10:10 a.m. Subcommittee members and staff introduced themselves.

Federal Substance Use Disorder Services Grants and Their Potential for State FFPSA Implementation

Nina Williams-Mbengue, program director, NCSL; Ms. Pittenger; Cynthia Chavers, bureau chief, Federal Reporting Bureau, CYFD; Ms. Sandoval; Ms. Jones; and Ms. Rainer addressed the subcommittee.

Ms. Williams-Mbengue described federal legislation relative to the Child Abuse Prevention and Treatment Act (CAPTA), the Comprehensive Addiction and Recovery Act (CARA) and the 2018 opioid package. The CAPTA requires states to have regulations and policies that require notification to state child protective services of all children born with substance abuse or withdrawal symptoms. The CARA amended the CAPTA in a variety of ways, including requiring states to develop monitoring systems regarding the safe delivery of services to affected newborns. The opioid package provides funding to support states' efforts to address the opioid crisis. Ms. Williams-Mbengue provided data regarding actions states have taken to respond to these federal laws. She identified several issues that legislators should consider in implementing the provisions of these acts. She discussed the topic of short stays in foster care and described the protocols and approaches that other states have taken regarding emergency protective custody and strategies to address unnecessary removals.

Ms. Williams-Mbengue addressed the issue of expedited kinship caregiver licensing, noting the 1997 Adoption and Safe Families Act requires kinship providers to meet the same licensing standards as foster parents. Some states, including New Mexico, have additional, specific licensing provisions, including age requirements and degrees of consanguinity. Eight states, including New Mexico, permit provisional approval while the kinship relative works to complete the requirements for full approval. She then discussed the legislative role in the FFPSA, which she identified as a monumental shift in child welfare funding and structure. Legislators are encouraged to work in tandem with state child welfare agencies, including Medicaid, the courts, the education system and other stakeholders. The FFPSA provides long-range planning, implementation and oversight opportunities. She highlighted actions taken in Colorado, Oregon and Virginia, and she congratulated New Mexico on its approach of establishing this interim subcommittee. Next steps and questions were proposed, including identification of funding needs, ways to monitor quality of services, measures to build capacity of evidence-based services and measures to determine a need for Title IV-E waivers.

Subcommittee members asked questions and made comments as follows:

- clarification regarding the need for timely access to courts to ensure immediate access to protective custody;
- whether New Mexico's experience in short-stay placements is consistent with federal trends: the average time in short-stay placement in New Mexico is approximately 48 hours;
- whether arrests for situations such as DWI or domestic abuse are the most common reasons for short-term stays: the most common reason for short-term stays is abuse and neglect;
- whether the NCSL has access to evidence-based programs that could be replicated in New Mexico: the federal government is working on developing a list, and California has an evidence-based program that specifically addresses short-stayers;
- a suggestion that more information and research about short-stayers is needed to determine whether a decision should be made to prioritize this population;
- whether a focus on short-term stayers represents an opportunity to maximize funding: Mr. Courtney thinks this may represent an opportunity; however, it would require some additional support measures such as transitional housing and a focus on children with incarcerated parents; Ms. Klundt thinks there may be some opportunities for additional federal funding in this area if evidence-based programs are chosen;
- Ms. Pittenger believes prioritizing the two-generation approach and coordinating with partners should be the primary priority;
- clarification of unique issues arising from the incarceration of one parent leading to the eviction from public housing of the other parent and foster or kinship children;
- recognition that priorities could change with the change in state administration;
- encouragement to focus initiatives on very young children as they represent the highest percentage of children experiencing abuse and neglect;
- a suggestion that the MCOs be required to develop a proactive, perinatal package to include home visitation with one global budget: Ms. Klundt noted the Centennial Care 2.0 waiver provides for a pilot project in three counties to test the inclusion of a perinatal package, and this was funded in the last legislative session; and
- whether it is known how the pilot program aligns with the number of children entering short-stay foster care: the programs are targeted to counties with the highest rate of abuse and neglect.

Mr. Courtney and Ms. Klundt were asked to review LFC's child welfare analysis and recommendations. Ms. Klundt provided highlights of the report, including acknowledgment that child welfare involvement is costly, and it is expected to grow as child maltreatment rates have risen by 28% over the last five years. According to CYFD data, 40,606 reports of abuse were received, resulting in 22,945 investigations and 2,600 children being placed in foster care. Although the legislature has requested a focus on prevention and early intervention, prevention receives the lowest amount of funding priorities, while foster care and adoption receive \$85.5 million in spending. Mr. Courtney noted that strategic investments, along with careful attention

to implementation and performance monitoring, should result in improved outcomes for children. He reviewed data that demonstrates benefit-to-cost ratios for both taxpayers and non-taxpayers. He described an alternative response that was run as a pilot program in New Mexico from 2005 to 2007. The pilot involved a system of responding to referrals where there is no imminent concern about a child's welfare. A family assessment was conducted, with the goal of engaging the family to determine the family's strengths and needs and to plan for the future. In order to implement this approach statewide, approximately \$4 million would be needed. He identified other approaches that the LFC recommends, including implementation of numerous Medicaid services, in-home parenting skills training and in-home parenting counseling. Estimates of the hypothetical projected costs to implement the four programs are highlighted in the report. He asserted that the LFC is not advocating for any one particular program.

Subcommittee members asked questions and made comments as follows:

- whether a substantial appropriation should be made for prevention and early intervention, while not reducing funding for adoptions and foster care: this should eventually result in a lowering of the need for funding for foster care and adoptions: the CYFD agrees;
- whether the CYFD needs legislation to implement such a differential response, and whether it would support it: the major concern is that there are not community-based services in place to which families could be referred;
- recognition that in some states, families refusing to respond to recommendations are then subject to a formal investigative process; the NCSL has model legislation that it can share on this topic;
- a request from Senator Ortiz y Pino that draft legislation be prepared to implement this model and that the legislation be ready should the new administration be amenable: Mr. Courtney noted that some groundwork was done two years ago that can be used toward development of this effort; and
- a request that Jenny Ramo, chair of the transition team for the CYFD, be apprised of the work of this subcommittee and its recommendations.

Mr. Courtney briefly addressed the issue of short-stayers, reasserting that most short-stayers in New Mexico are in custody for less than 48 hours, with neglect being the most common reason for emergency placement. He noted that though most short-stay placements nationwide are the result of law enforcement actions, most states have moved to allowing child welfare workers to make removal decisions. He identified several recommendations that the legislature and the CYFD could consider.

Subcommittee members asked questions and made comments regarding short-stayers as follows:

- whether current data regarding short-stayers are available: data has been collected and can be made available;

- whether the current intake process is adequate: technology is antiquated but, in general, it is working; if the state were to move to an alternative model, a statewide, collaborative intake process would be necessary;
- whether there is one recommendation that is more important than all others and that would make the most difference: no;
- recognition that the CYFD is looking at improving relations with law enforcement, and the new safety assessment is expected to be very helpful; training has been helpful and is ongoing;
- a recommendation that the New Mexico Sheriffs' Association become an important partner: the CYFD notes that the New Mexico State Police is the biggest partner but agrees that local partners should be recognized as critical to the process;
- whether, historically, child welfare workers in New Mexico could remove children from a home in an emergent situation: not since the early 1980s;
- a request that the five-year-old CYFD analysis of short-stayers and foster care be updated;
- an observation that CFP provided a handout on supportive communities and collaborations with law enforcement as a resource;
- a suggestion that the issues addressed by this subcommittee be placed on the January 2019 agenda of the Children's Law Institute;
- encouragement to prioritize collaboration, education and cooperation with many partners in addressing these critical needs;
- recognition that the New Mexico Attorney General's Task Force on Human Trafficking has been very helpful in identifying children at risk;
- whether the Children's Cabinet could or should be revitalized: a child and adolescent subcommittee of this cabinet exists; and
- a request for a map that reflects all the referrals and screened in reports by age: the CYFD tracks the data by county and will provide the data to the subcommittee.

Participant Input

Senator McSorley asked members, participants and the audience what one thing they would like to see in a final report to the legislature and the new governor. Responses are as follows.

Participants

- implement the recommendations about short-stayers;
- develop a comprehensive system of safe care; FFPSA funding should be maximized;
- all three branches of government should focus on younger children; the NCSL and other organizations are working on a report of the most important issues that should be available in January;
- in addition to prevention services, keep looking at resources needed for congregate care;
- incentivize the HSD to become an active partner in addressing this need;

- update the management information system, which dates back to 1977; this would require an estimated \$30 million;
- focus on families and parents of children;
- recognize that prevention includes promotion efforts;
- better identification of children in foster care and those children who have behavioral health needs;
- develop and implement universal screening;
- identify at-risk children and parents as priority populations;
- build a three-pronged, trauma-responsive system (safety, parenting and self-regulation);
- fund a QRPT system; a CYFD proposal is already prepared and will be presented to the LFC;
- continue to expand wraparound services in all areas;
- pursue the "Building Bridges" initiative; and
- establish a quality improvement department for behavioral health services.

Audience members

- fund affordable housing initiatives;
- improve tracking to build evidence-based programs;
- create an entity to build relationships and collaborations upstream of child welfare;
- establish or rebuild a Children's Cabinet; create a new prevention division of the CYFD; create an alternative response process; establish a quality assurance department; upgrade data systems and technology;
- implement LFC recommendations, especially those on pages 6 and 12 of the report; do not overlook older youth and family-based placement for them; ensure support for parents; provide training and education vouchers up to age 26;
- involve foster parents in solutions; conduct a longitudinal study of children who have aged out of foster care; and
- improve and share technology.

Subcommittee members

- work with tribal governments to enhance shelter care;
- work more with MCOs; reenact the Children's Cabinet;
- create legislation that requires continued collaboration with the legislature; and
- maximize one-time funding opportunities that may exist this year alone; consider extending this subcommittee for another year, or create a funded cabinet division.

Representative Gallegos thanked participants and audience members for their suggestions. Senator McSorley encouraged the LFC and the CYFD to project funding needs in writing. Mr. Courtney reminded the subcommittee of the projected funding for hypothetical projects presented. Some of the projections would need to be expanded statewide, and an estimated \$12 million would be needed for evidence-based programs alone. The CYFD was encouraged to fund adoptions to the \$107 million level or more, and it was encouraged to work with the LFC to revise estimates of need.

Senator McSorley requested that all participants and audience members submit their recommendations to Mr. Pommier for inclusion in a final report of the FFPSA Subcommittee.

Adjournment

The meeting was adjourned at 1:30 p.m.

RECOMMENDATIONS OF STAKEHOLDERS

**MEETING OF THE
FAMILY FIRST PREVENTION SERVICES ACT SUBCOMMITTEE**

**November 19, 20 and 27, 2018
State Capitol, Room 315
Santa Fe**

**RECOMMENDATIONS
OF STAKEHOLDERS, ADVOCATES AND ATTENDEES**

Stakeholders and audience members in attendance at the first meeting of the Family First Prevention Services Act (FFPSA) Subcommittee presented diverse recommendations and requests to shape the future of New Mexico's services to prevent child maltreatment, trauma and foster care placement. However, over one-half of the recommendations fell within four critical areas. First, stakeholders strongly believe that an effective system centered around prevention must break through siloed organizational structures. To improve continuity of services across systems requires dedicated collaboration between all three branches of government, but particularly within and across executive departments and agencies.

Specific recommendations in the area of collaboration include:

1. requiring the Human Services Department to prioritize services for parents of children referred to the Children, Youth and Families Department (CYFD);
2. creating and staffing a task force on adverse childhood experiences policy and student achievement within the Public Education Department;
3. creating and staffing a steering committee in the judicial branch similar to the guardianship steering committee with executive, judicial and legislative stakeholders;
4. re-tooling and reestablishing staff and funding for the Children's Cabinet (Section 32A-22-1 NMSA 1978), or creating a similar cabinet-level "Family Success Collaborative";
5. requiring a court order before law enforcement is allowed to remove a child from the child's home;
6. creating more affordable housing;
7. establishing universal screening to detect signs that a child may be in imminent danger of maltreatment;
8. requiring regular reporting to the legislature and re-creating the FFPSA Subcommittee;
9. enhancing collaboration between the CYFD's child placement services and local law enforcement; and
10. strengthening the CYFD's Prevention and Intervention Division. (See Subsections D, J and K of Section 9-2A-8 NMSA 1978.)

The second area of concern is that the CYFD must be supported with staff and funding to upgrade its technology and systems. The FACTS system was implemented over 21 years ago in 1997. According to department staff, a new system would improve collaboration with other

agencies; more effectively support caseworkers; provide modern assessment tools for children and families that come into contact with the CYFD; and allow the department to better comply with federal regulations. The CYFD is requesting \$30 million for critical information technology upgrades, to be funded in stages.

Specific recommendations for the use of upgraded technology include:

1. using performance management systems to track implementation and outcomes of programs;
2. performing longitudinal studies of outcomes after permanency;
3. implementing continuous quality improvement processes;
4. identifying and reinvesting the cost savings gained from prevention services; and
5. studying the outcomes of children who were referred to the CYFD, but screened out.

The third area of concern, the health and well-being of children and families, must be supported by services at the local community level. This requires forging new links between the CYFD and counties, cities and schools and rebuilding community-based services through increased funding and more effective coordination. Particularly, representatives from the Legislative Finance Committee (LFC) recommended creating more screening pathways out from a CYFD referral supported by community-based services. Currently, a referral to the CYFD is either screened in or screened out. Using alternative response systems, sometimes referred to as a differential response, would allow the CYFD to differentiate its response to referrals for abuse or neglect, based on several factors, and to screen in cases that do not rise to an investigatory level but would benefit from referral to community support systems, thereby preventing child maltreatment and entry into foster care.

Specific recommendations in the area of building community-based supports systems include:

1. focusing first on support for basic areas that allow families to survive, such as behavioral health care, medical and dental care, food security programs, secure housing programs and transportation;
2. focusing next on support for services that allow families to thrive, such as parent supports and home visitation, early childhood learning programs, family-centered schools, youth mentor programs and job training programs;
3. supporting intensive in-home services for families experiencing a crisis;
4. implementing an alternative response system;
5. creating prevention and early intervention service areas;
6. creating a universal Medicaid birth services package as a means to support the majority of new parents in New Mexico without the stigma attached to services provided after a CYFD referral;
7. increasing rates for providers;
8. instituting protections for families participating in substance abuse harm-reduction programs to foster trust between families, CYFD caseworkers and service providers;
9. creating an entity to focus on behavioral health; and
10. supporting kinship caregivers with needed services.

The fourth area of concern is that the CYFD must move toward employing more evidence-based models of care. A \$12 million funding request was suggested to support evidence-based models. Stakeholders discussed the California Evidence-Based Clearinghouse for Child Welfare, located online at <http://www.cebc4cw.org/>. Representatives from the LFC identified several areas of evidence-based practice.

Specific recommendations in the area of evidence-based practices include:

1. creating an alternative (differential) response mechanism to connect to services more families referred to the CYFD who are not screened in for investigation; and
2. supporting parent training and behavioral health supports, such as Triple P, SafeCare and nurse-family partnerships¹.

Lastly, advocates and foster parents who attended the FFPSA Subcommittee meeting emphasized the importance of taking into account the needs of older youth in foster care, as well as the importance of listening to the concerns of foster parents. The representative from the National Conference of State Legislatures pointed out that the majority of children in foster care are from zero to three years old, so supports in this area should be prioritized. CYFD staff also requested help with transition from congregate care homes, which will not be eligible for certain federal funds, to qualified residential treatment programs (QRTP), which will be.

Specific recommendations from advocates, parents and attendees included:

1. requiring investigators to be licensed social workers;
2. identifying resources and interventions to support transition from congregate care to QRTPs;
3. eliminating 48-hour holds by law enforcement;
4. promoting family-based placements for older youth;
5. creating stronger reunification services for older youth;
6. increasing permanency support for older youth to prevent re-entry;
7. extending foster care to age 21;
8. extending eligibility for Chaffee services to age 23; and
9. extending the age of eligibility for the Education and Training Voucher Program to age 26.

¹ The Human Services Department plans to pilot Medicaid-funded home-visiting programs that include nurse-family partnerships, which should begin in January 2019.



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