

Senator Charles E. Grassley and Senator Mary Landrieu
Co –Chairs
SENATE CAUCUS ON FOSTER YOUTH
Present
Options for Child Welfare Reform: A CALL TO ACTION
October 7, 2010

Executive Summary

Two years ago, on October 7, 2008, bipartisan leaders from Congress enacted and President George W. Bush signed the “Fostering Connections to Success and Increasing Adoptions Act of 2008.” This bill had the support of more than 500 organizations across the country and established the most significant improvements to child welfare in more than a decade.

The Fostering Connections Act made improvements to a range of federal policies, including adoption, kinship care, Tribal foster care, health care, and education. The Act included a number of provisions aimed at addressing the special needs of older youth in foster care and those transitioning out of care.

However, as important a reform as “Fostering Connections,” was, it was but a down-payment. The need for comprehensive reform of the child welfare system is undisputed. Reforms need to reflect a broader array of services needed to support children and families, and also to improve the underlying financing structure that governs the way the federal government pays for these services. Analysis by experts as well as testimony by current and former foster youth highlight the many ways in which the system is antiquated and does not effectively address the emotional and physical well being of children and young people in foster care. Incentives to help keep fragile families together are scarce. The least desirable outcome: removing a child from the home and placing her in foster care, is the activity that is the most highly subsidized.

Every year as many as 30,000 youth exit the system without a permanent connection to a family or a caring adult. These young people often end up homeless, addicted to drugs and engaged in criminal activity. Youth in foster care are more likely to get pregnant or cause a pregnancy than youth who have not been in care and they are less likely to complete college than their youth counterparts in general.

We established the Senate Caucus on Foster Youth to break down the arbitrary silos of public programs and closely examine the experiences of a young person aging out of foster care so

that the Congress and stakeholder could better understand how to address the problem of increasing numbers of young people aging out of care without a permanent family to call home.

At our direction, Members of the Caucus staff met with Foster Care Alumni, child welfare researchers, think tank associates, advocates and government officials for a series of working groups designed to address issues relevant to children and youth in foster care and to develop a variety of proposals for Members of Congress to consider as a CALL TO ACTION for child welfare reform.

Current and former foster youth participated in every working session and contributed significantly to refining and enhancing the proposals. During these working sessions, several themes emerged that the proposals included in this CALL TO ACTION attempt to address.

Youth in care report often feeling powerless and disconnected to supports and resources. Actions are taken on their behalf without their knowledge, understanding or consent. Age appropriate activities such as summer camp, after school activities, and social events, normal parts of the lives of most young people, are often not available to them. In many cases, they are isolated, prevented from attending regular school and limited in their ability to participate in recreational activities, a part-time job or playing sports. These activities could help facilitate a mentorship relationship with a caring adult.

While permanency is the stated goal of every child in foster care, oftentimes that goal is not attained and in many cases, youth in foster care report that they do not have an understanding of what “permanency” means. Despite federal policy requiring both the development of a plan to achieve permanency for each child or youth in foster care and a review of that plan at least annually, testimony from former foster youth suggest this doesn’t always happen in a meaningful way.

The Caucus learned about significant gaps in the oversight of policies and procedures affecting youth in care. An area where concerns were repeatedly expressed related to the possible over-reliance on psychotropic drugs as a means to manage and control the behavior of youth, especially in group homes or other congregate care facilities.

The financing of child welfare programs does not appropriately target resources to activities that produce the best outcomes for children and families.

Comprehensive child welfare reform cannot be done piece-meal. Financing reform cannot be effective without systemic reform and visa-versa. We hope this work and the proposals resulting from it will be useful as Members of Congress contemplate the next phase in child welfare reform.

Quotations included in this document were shared with the Caucus with the understanding that they would be made public. We are deeply indebted to the youth, who demonstrated leadership, great courage and offered profound insights, for their willingness to engage in this effort.

Youth Participants:

Tiesha Davis, Colorado
Isha-Charlie McNeely, Oregon
Faith Slater, South Carolina
Nicole Dobbins, Oregon
Dan Knapp, New York
Kayla VanDyke, Minnesota
Ashley Jackson, Missouri
Darrlyn Moorner, New York
Lupe Tovar, Arizona
Nicole Marchman, Florida
Serena Vidaure, California
Jeremy Long, Colorado
Janessa Senter, Iowa
Marcus Brown, Michigan
Jessica Adams - Maryland
Breana Heater - West Virginia/Florida
Crystal Lipek, Wisconsin
Joscelynn Murdock, California
Anthony Reeves, Georgia
Chantel Johnson Crockmon, California
Mandy Baldwin, Montana
Raif Walter, Montana
Eric Lulow, Tennessee
Christina Miranda, Pennsylvania
Luis Beltran, Nevada
Tracye Redd, Iowa
Amanda Metivier, Alaska
Lily Eagle Dorman-Colby, Connecticut

Sincerely,

Senator Chuck Grassley (R-IA)
Senator Mary Landrieu (D-LA)
Co-Chairs, Senate Caucus on Foster Youth

Group Homes/Congregate Care/Psychotropic Medications

Youth Experiences

“Growing up, I was placed in 6 group homes/treatment facilities. In many of these placements I faced things that a young person should not have to experience, particularly when placement is primarily due to a lack of family placements. One of the biggest factors was the feeling that you are living in a separate world – without interaction with the community. I was not able to go to a public school, which left me behind in my education. In the group home environment, I was often deprived of having my own personal belongings..... I also was not allowed the privacy of reading my mail by myself.”

Tiesha Davis; Age 19, 14 years in foster care

“My experience with congregate care – at a “lockdown” facility in particular - was very scary. I didn’t want to stay in the foster home I was in because it was abusive so I had my caseworker remove me immediately. My caseworker said the only placement she could find for me was at a lockdown facility/shelter. I was there from mid December to mid January, I spent Christmas and New Years there, I was 15. After that, I spent a lot of holidays in group homes and congregate care.

I was placed in this setting with girls who had been expelled from schools for fighting, girls who just got out of jail for stealing, selling dope, prostitution, etc., simply because there wasn’t a suitable family foster home for me to go to.

I was not allowed to have my cell phone or any outside contact. I could use the landline phone but only if I was talking to someone that my caseworker put on the list when I first arrived which had been only my younger sister. All calls were supervised. Once my belongings arrived from my old foster care home, the staff took my cell phone, my nail polish, nail remover, razors, shoe strings, and anything they thought I could use to harm myself. Communal showers were common unless you had progressed to a certain level of responsibility. At any group home or lockdown facility you start off at the lowest level (level 1) and you have to prove that you can be trusted and if so you move up. “

Charlie McNeely; Age 23, 15 years in foster care

When I was about 15 years old, my caseworker chose to count me as a runaway when I reported having problems at my foster home. I had been having issues at the home due to a foster sister’s involvement in drugs and inappropriate dating activity (and peer pressure for me to get involved, too) and the foster parents’ mental health issues. I had been threatened by my caseworker that if I requested to move, I would be placed in a group home. A family fight led me to stay with a friend for a couple days, which apparently provided grounds for me to be reported as having run away. This led to my placement in a group home that was part of a residential treatment program.

Despite this less-than-perfect entry into a group home or congregate care situation, I think my experience with group homes was probably more positive than that of many other young people. When I entered the new home, I was able to stay in my same public school, which was only about a block from the home. The group home seemed to be much like a family environment, with house parents that cared for us. The woman in the home was very encouraging and supportive.

Jamie Heinz; Age 22, 8 years in foster care

OPTIONS FOR REFORM

1. Protections for Children at Risk of Placement in Congregate Care

Current Law:¹

Each child or youth in foster care is to have a case plan that describes the type of home or institution where he or she is to be placed and the safety and appropriateness of the placement. The placement is to be the least restrictive (most family like) and appropriate setting available that is in close proximity to the parents' home and is consistent with the best interests and special needs of the child or youth. At least every six months, the case plan is to be reviewed by a court or administrative body to determine, among other things, the safety of the child and the continued appropriateness of the placement (Section 475(1)(A) and Section 475(5)(A) and (B)).

States are required to make diligent efforts to identify all adult relatives of a child within 30 days of the child's removal from the home and to notify those relatives of options for participating in child's care as appropriate (Section 471(a)(29)).

Under the Adoption and Foster Care Analysis Reporting System (AFCARS) states must report case-level data to the U.S. Department of Health and Human Services (HHS), twice a year on each child in foster care. Required data elements include age of the child; the county with responsibility for the child's placement; the current placement setting of each child; and diagnosed disabilities or other special needs. States must also report data needed to track a child or youth's length of stay in foster care but not length of stay by specific placement setting. Further, while states must report whether a child in a congregate setting is placed in a group home or an institution, no other information about the kind of congregate setting must be reported (Section 479).

¹ Unless otherwise noted, all statutory citations refer to the Social Security Act.

Proposals:

Require that states demonstrate that each decision to place a child or youth in a group home, or other forms of congregate care, is preceded by a family group decision making meeting or efforts to find an alternative placement for the child or youth by someone experienced in intensive family finding.

Require that the decision to place a child or youth in congregate care be reviewed by the commissioner or a regional administrator and that the recommendation for the placement be accompanied by a statement as to why it is the least restrictive setting appropriate for the child. Require that this decision be re-visited every 90 days and that the child or youth's permanency plan is updated concurrent with the process.

Require states to report data on children in congregate care that records county by county: the numbers of children, by age and special needs, type of group homes or other congregate care settings, and duration of placement in congregate care.

2. IV-E Reimbursement for Congregate Care

Current Law:

Under Title IV-E, states² are required to make foster care maintenance payments – sometimes referred to as a room and board payment – for each eligible child in foster care (Section 471(a)(1)) and they are entitled to federal reimbursement for part of the cost of providing that payment on behalf of each eligible child. The federal reimbursement rate for these payments – that is the part of cost reimbursed by the federal government – is equal to a state's federal medical assistance percentage (FMAP). Each state's FMAP is adjusted annually and may range from 50% (in states with higher per capita income) to 83% (in states with lower per capita income) (Section 474(a)(1)).³ Federal reimbursement under Title IV-E is generally not available for services of any kind, including prevention or treatment services for families at risk of having a child placed in foster care (Section 474(a)(1)-(3) and (5)). Some federal Title IV-E support is available related to finding relatives of children or youth who entered foster care (Section 471(a)(29) and Section 474(a)(3)(E)).

² "States" -- when used in description of current child welfare law included in Title IV-E of the Social Security Act -- refers to any of the 50 states and the District of Columbia, as well as any tribe or territory with an approved Title IV-E plan.

³ Tribes with an approved Title IV-E plan are entitled to reimbursement at a separately calculated Tribal FMAP rate. That rate may be more than, but not less than, the FMAP of any state in which the tribe is located (Section 479B(d)).

Children for whom states may seek federal reimbursement for foster care maintenance payments must meet various eligibility criteria. These include placement setting requirements, among others. To be Title IV-E eligible a child must be placed in a foster family home or a congregate care setting (referred to in the law as a “child care institution”) that is licensed according to state standards for such a home or facility. Children placed in “detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent” are not eligible for foster care maintenance payments. Neither are children placed in a public facility that houses more than 25 children. (Federal child welfare policy, however, does not limit the number of residents in a private facility.) Section 472(a)(2)(C).

States are required to establish and maintain standards for foster family homes and “child care institutions” that are “reasonably in accord” with standards recommended by national organizations that are concerned with standards for such homes or institutions, including standards related to admission policies, safety, sanitation, and protection of civil rights (Section 471(a)(10)).

Proposal:

Federal reimbursement for room and board in group homes and other congregate care settings will be limited to facilities that have met requirements for accreditation by a national organization that provides accreditation of congregate care settings.

After a *one-time* 90 day period, the federal IV-E reimbursement rate for room and board in congregate care settings will be reduced over time. Exceptions made for homes that specialize in providing post-pregnancy supports for parenting teens and other youth with special needs. Federal savings from this reduction can be used to match state efforts to use IV-E funds to engage in family finding activities for all youth in care and for prevention and treatment options for families at risk of having to place a youth in care.

3. Improved Recruitment of Foster Family Homes

Current Law:

HHS is required to support projects (local and or national) to increase awareness of need for adoption of children from foster care and to support recruitment of minority families as well as families willing to adopt older children in care (Section 203(b)(2),(10) and (11) of Adoption Opportunities and Section 330G of the Public Health Service Act). As part of responding to these requirements, HHS supports the National Resource Center for Recruitment and Retention of Foster and Adoptive Parents at AdoptUsKids (www.adoptuskids.org).

States are required to provide for the diligent recruitment of potential foster and adoptive families that reflect the ethnic and racial diversity of children in the State for whom foster and adoptive homes are provided (Section 422(b)(7)).

Proposal:

To help reduce the need for the use of congregate care, the Secretary of HHS must use a portion of the Department's discretionary funding to develop and air Public Service Announcements to highlight the need for nurturing foster family parents to provide safe homes for children and youth in foster care, particularly older youth and other special populations.

4. Restrictions on "Another Planned Permanent Living Arrangement" (APPLA) as a Permanency Option

Current Law:

Within 12 months of the child or youth entering foster care, the state must ensure that a hearing is held to establish a permanency goal for that child or youth. The permanency goal established may be return to parent(s), placement for adoption, or placement with a legal guardian. Alternatively, the state may establish "another planned permanent living arrangement" or APPLA as the child or youth's permanency goal. However, it may only do this if it can document to the court (or court-approved administrative body) a *compelling reason* that none of the other permanency options is in the child or youth's best interests (and that placement with a fit and willing relative is also not in the child or youth's best interests) (Section 475(5)(C)(i)). HHS has promulgated regulations noting the following situations as examples of compelling reasons to establish APPLA as a child or youth's permanency plan: 1) an older youth specifically requests emancipation as planned outcome; 2) a child and parent have a significant bond but the parent is unable to care for the child because of an emotional or physical disability and the child's foster parents have committed to raising him/her to the age of majority and to facilitate visitation with the disabled parent; or 3) an Indian Tribe has identified another planned permanent living arrangement for the child (45 C.F.R. 1356.21(h)(3)).

Proposals:

Eliminate "another planned permanent living arrangement" (APPLA) as a permanency option.

Alternatively, modify the option. Make APPLA available only for youth older than 16 or 17 years of age, only after efforts at intensive family finding have been undertaken, and only if APPLA is determined or re-determined necessary by the court at each permanency hearing held with regard to the youth. This must include a judicial determination, at each permanency hearing for a youth with APPLA goal, that there are

compelling reasons why each of the preferred permanency plans (reunification, adoption, and guardianship) are not appropriate at this time.

5. Federal Reimbursement for Post-permanency Supports

Current Law:

States are entitled to receive partial federal reimbursement under the Title IV-E program for foster care maintenance payments, adoption assistance payments, and (if the state has elected to provide them) kinship guardianship assistance payments made on behalf of eligible children. States are further entitled to claim partial federal reimbursement for eligible costs in administering the Title IV-E program, including some program costs related to data collection, training, child placement activities, and any other expenses related to the “proper and efficient administration” of the Title IV-E plan. States cannot claim administrative cost reimbursement under the Title IV-E program for any *services* provided to children in foster care or those leaving foster care, including post-permanency services (Section 474(a)(1)-(3) and (5)).

For federal fiscal year 2009 states submitted total Title IV-E foster care claims of \$8.6 billion and expected to receive federal reimbursement for about \$4.6 billion (or 54%) of those program expenditures. Also for federal fiscal year 2009 states submitted total Title IV-E adoption assistance claims of \$3.9 billion and expected to receive federal reimbursement for about \$2.3 billion (or about 60%) of those program expenditures.⁴

Proposal:

Allow federal Title IV-E dollars to be used to support the provision of post-permanency supports for a period of time when children are reunited with their families, adopted or placed permanently with relative guardians to help reduce reentry and the placement of children in congregate care.

6. Report on the Use of Psychotropic Drugs by Children and Youth in Foster Care

Current Law:

No provision.

Proposal:

⁴ U.S. Department of Health and Human Services, Administration for Children and Families, Office of Legislative Affairs and Budget, “Title IV-E State Claims for Expenditures, FY2009,” compiled as of May 3, 2010. The Title IV-E kinship guardianship assistance component was established in early federal fiscal year 2009 and most states had not yet made the necessary changes to their Title IV-E plans to make this kind of Title IV-E claim during that year.

The Department of Health and Human Services will conduct an analysis of the types of psychotropic drugs prescribed to children and youth in foster care, determine what, if any, consistent and medically valid criteria are in place for prescribing these drugs, and determine how frequently states review and monitor the policies and practices relative to the use of psychotropic drugs for children and youth in foster care. HHS will report findings to the Congressional Committees of jurisdiction.

HHS will also consult with the Food and Drug Administration (FDA) to determine the percentage and types of drugs prescribed to children and youth in foster care that are used for “off label” purposes or that have not been tested and approved for children.

7. Health Plan for Children and Youth in Foster Care

Current Law:

State child welfare agencies are not required to provide a health care assessment for children in foster care. However, the case plan for each child in foster care must include his or her health records, including a record of immunizations and medications, and other health information that the state child welfare agency determines to be relevant (Section 475(1)(C)).

Separately, each state must develop a plan for the ongoing oversight and coordination of health care services for children in foster care. The oversight plan must be developed in collaboration with the state child welfare agency and the state agency that administers the Medicaid program (and in consultation with other relevant experts and stakeholders). Among other things, the strategy and plan must outline: a schedule for initial and follow-up health screens; how the health needs identified by those screens will be monitored and treated; how medical information for children in care will be updated and appropriately shared; steps to ensure continuity of health care services; and oversight of prescription medicines (Section 422(b)(15)).

Proposal:

In order to qualify for federal reimbursement under Title IV-E, a state must provide and regularly update a health assessment for each child or youth in care. This assessment must include a description of the medications prescribed to the child or youth, the conditions they are meant to address and updates on the continued need for medication.

Networking/Sibling Connection/Youth Engagement/Mentoring

Youth Experiences

“When I went into foster care, my two older sisters and I were separated from our four younger brothers. It was difficult to find a home that would take all seven of us, so in all but one home I was placed in, we were all separated from one another. Though I was always placed with my two older sisters, I was never in contact with my brothers. The only time that I got to see them was on visits with our biological mother, which were not that often. I never knew where they were living, who they were with or how they were doing. There was one home that I was placed in that did take in all seven of us. It was a great time for me because I was back with all my siblings and we would laugh, play and just be with each other. However, after about two years, we were suddenly and without explanation, taken away and separated again. My sisters and I were dropped off first and there were lots of tears as we hugged our brothers goodbye, not wanting to let go. How can anyone possibly know how it feels to have your best friends/playmates taken away from you? To have half of you ripped away from you? I went from seeing them every day, to never seeing them at all.

No one told us anything and we didn’t really know what was going on. I was so confused and didn’t know how to ask to stay connected to my brothers, even though I suspect they were living only blocks away.

I feel that it is very important for siblings to be connected with one another, especially when separated when in foster care.”

Darrlyn “Dee” Moorer; Age 22, 10 years in foster care

“While in care social networking played a huge role for me to be more specific social media sites played a large role. Entering care at age 16 I moved into a rural area with my aunt and uncle. I lived 45 minutes away from my school, friends, and everything I knew. During this time I experienced more loneliness than ever. To help channel those feelings I connected to my friends through MSN messenger and Myspace. It really helped me to feel not so alone and know that my friends were just a click away. Without having this opportunity to use social media, I would have been unable to maintain relationships and feel the support I needed when entering care.

Another key contributor for me while in care was being engaged at school. Early in my education I began getting involved with extracurricular activities. It was my outlet to direct the negative situations I experienced at home. Entering care I was not certain how that would be affected. However, I was allowed to remain involved at school – something many foster youth are unable to do.”

Ashley Jackson, Age 21; 5 years in foster care

“While I was growing up, I didn’t have a whole lot of friends or permanent people in my life. It seemed like every time I would get settled in a place and make a friend I was forced to move. When I became older I was even more isolated, because I had experienced a completely different childhood than most. Not only did I feel like I had nothing to relate to others with, I also had a lot of fear that if I were to open up to someone that either I would leave or they would leave, and the connection would be lost. This is a fear that is commonly felt by foster children, because of the trend of displacement that often follows them.

When I was fifteen my life changed, because I was introduced to three women who would serve as my mentors through high school. I didn’t have a formal mentorship, but luckily the women who became a part of my life were loving and genuinely cared about me. They inspired and encouraged me to fulfill my dream of going to Japan as an exchange student and going to college. Without them, I know I wouldn’t be where I am today. For me, they served as the permanent people I never had, but always needed.

For many foster youth who are accustomed to not having a permanent person who they can talk to and rely on no matter what is happening in their lives, having people like this is invaluable.”

Kayla VanDykel Age 18, 8 years in foster care

OPTIONS FOR REFORM

1. Foster Care Bill of Rights

Current Law:

No provision.

Proposal:

As part of its Title IV-E plan, a state must describe to HHS the measure undertaken to engage with youth advocacy groups to develop, design and distribute an easy-to-read Foster Care Bill of Rights. The Foster Care Bill of Rights must detail the age-appropriate rights of all children and youth in foster care, provide a list of resources they can use to address grievances, include the names and contact information of youth-focused supports within the state, and list options available to youth in care to access social network sites on the Internet. Included, as appropriate, must be a compilation of all federal and state educational opportunities, programs, and scholarships available to youth currently or formerly in foster care.

The state must certify that no later than 2 years after enactment, this brochure will be made available to all youth in care, regardless of placement setting and to youth stakeholders, such as foster parents, Court Appointed Special Advocates, and mentoring organizations. Further the state will be required to ensure that the brochure is posted in all foster care placement settings and is made available on the Internet. Failure to comply would result in a pro rata reduction in the state's FMAP for IV-E for the period of one year.

2. Additional Steps to Help Youth Benefit from What Federal Law Provides

Current Law:

Not applicable.

Proposal:

The Government Accountability Office (GAO) shall review state practices in place to ensure that children and youth; providers, including foster parents, congregate care personnel, and agencies that provide foster care placements; and staff, including child welfare caseworkers and their supervisors, know about the rights youth have and the agencies' obligations to children and youth while in foster care. The GAO shall identify, and report on, the degree to which states:

- notify staff, providers and youth that children must (as required by Section 475(5)(A)) be placed in a safe setting that is the least restrictive (most family-like) and most appropriate setting available and in close proximity to the parents' home, consistent with the best interest and special needs of the child;
- notify these same stakeholders that (as required by Section 471(a)(31)) reasonable efforts must be made to place siblings removed from their home in the same foster care, kinship guardianship, or adoptive placement unless the state documents that such joint placement would be contrary to the safety or well-being of any of the siblings; and when they are not jointly placed, provide for frequent visitation or other ongoing interaction between the siblings, unless such activity would be contrary to the safety or well-being of any of the siblings;
- assure that the placement of the child or youth in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which the child or youth is enrolled at the time of placement (as required by Section 475(1)(G)(i));
- ensure that the agency (as required by Section 471(a)(15)) is making reasonable efforts to place a child or youth who is in foster care in a timely manner in accordance with the permanency plan and to complete steps necessary to finalize the permanent placement;
- before establishing a youth's permanency plan as "another planned permanent living arrangement" (APPLA), determine that there are compelling reasons that a

- permanency plan of reunification, adoption, guardianship, or placement with a fit and willing relative would not be in the child or youth's best interests (as required by Section 475(5)(C)(i)) and, if this determination is made, reasonable efforts are made to finalize "another planned permanent living arrangement" for the youth (as required by Section 471(a)(15)(C));
- have (as required by Section 475(5)(C)(iii)) procedural safeguards in place so that in any permanency hearing held with respect to a child or youth in foster care, the court or administrative body conducting the hearing consults with the child or youth in an age-appropriate manner regarding the proposed permanency plan or transition plan;
 - ensure that (as required by Section 475(5)(D)) a child or youth's health and education record is reviewed and updated and a copy of the record is supplied to the foster parent or foster care provider with whom the child is placed, and, is supplied, at no cost to any youth who reaches the age of majority and leaves foster care;
 - have procedures in place that allow the state child welfare agency (as required by Section 475(1)(G)(ii)) to coordinate with local educational agencies to enable a child or youth to remain in the school he or she was enrolled in at the time of foster care placement, or, if this is not in the child or youth's best interests to ensure immediate and appropriate enrollment in a new school; and
 - is ensuring that the state child welfare agency and the state agency that administers Medicaid are developing, in consultation with other relevant stakeholders, a coordinated plan to identify and respond to the health care needs of children in foster care (as required by Section 422(b)(15)).

3. Improve Access to Appropriate Social and Extracurricular Activities

Current Law:

No provision.

Proposals:

States should clarify or implement policies so that foster parents and group home administrators are encouraged to assist children in their care to participate in age-appropriate extracurricular enrichment and social activities, and activities designed to assist older youth make the transition to independence, build life skills, and to enhance opportunities to make positive connections.

Courts, as part of their oversight function, must inquire of case workers, foster parents, children and youth, and other relevant individuals involved with the case (such as Court Appointed Special Advocates), what strategies are in place or underway to develop or promote appropriate extracurricular enrichment and social activities, and activities

designed to assist older youth make the transition to independence, build life skills, and to enhance opportunities to make positive connections.

4. Personalized Transition Plan for Older Youth

Current Law:

The law requires that a youth's caseworker, and as appropriate, other representative(s) of the youth, assist and support him or her in developing a transition plan. The plan is to be directed by the youth, and is to include specific options on housing, health insurance, education, local opportunities for mentors, workforce supports, and employment services. The plan must be implemented 90 days prior to the 18th birthday of a child in care (or the 19th, 20th, or 21st birthdays of youth in states that take up the option to extend foster care). Beginning with federal fiscal year 2011, the transition plan must address the importance of designating another individual to make health care treatment decisions on behalf of the youth if he or she becomes unable to participate in these decisions and does not have a relative who would be authorized to make these decisions under state law, or he or she does not want a relative to make such decisions. In addition, the transition plan must provide the youth with the option to execute a health care power of attorney, health care proxy, or other similar document recognized under state law (Section 475(5)(H)).

This transition plan is separate from the youth's case plan. Each child or youth in foster care is to have a case plan and specific requirements are provided for youth in care at age 16 or older. For those youth the state must "where appropriate" include in the case plan a description of the programs and services that will help the child prepare for the transition from foster care to independent living (Section 475(1)(D)). Further, the status of each child in foster care must be reviewed no less often than every six months by a judge or an administrative review panel to determine the extent of compliance with the case plan. In addition, the child's permanency plan, which addresses the child's permanency goal(s), is to be reviewed by a court (or court-approved administrative body) no less often than every 12 months after the child enters foster care. For a child age 16 or older, the permanency plan hearing must consider "the services needed to assist the child to make the transition from foster care to independent living" (Section 475(5)(B)and(C)).

Proposal:

Require the establishment of a personalized transition plan when a youth in care is 16 years of age or older and require states to update that plan every six months until the youth finds permanency or is emancipated. Amend the plan to offer opportunities for mentors to older youth in care.

5. Grants to States to Form Youth Engagement Partnerships

Current Law:

The law does not address youth engagement activities; however, select provisions of the law seek to involve children in decisions about their placement in foster care. As part of the annual permanency hearing, the court or administrative body conducting the hearing must consult, in an age-appropriate manner, with the child regarding the proposed permanency plan or transition plan for the child (Section 475(5)(C)(iii)). In addition, the Chafee Foster Care Independence Program, which provides independent living services to children likely to age out of care and children who have emancipated from care, addresses youth engagement and relationships. One of the stated goals of the program is to provide personal and emotional support to participants, through mentors and the promotion of interactions with dedicated adults. States must certify that participants are directly engaged in designing their own program activities to prepare them for independent living (Section 477(b)(3)(H)).

States receive federal Social Services Block Grant (SSBG) funding to provide services to meet five general purposes, including reducing dependency and improving self sufficiency of individuals; preventing or responding to abuse, neglect or exploitation of children or the elderly; preventing institutional placement through provision of other kinds of services or placements; securing referral for admission to institutional care, if appropriate; and providing services to individuals in institutional care (Section 2001).

States receive federal Temporary Assistance for Needy Families (TANF) block grant funding to meet four basic purposes: provide assistance to needy families so that children may be cared for in their own homes or the homes of their relatives; end dependence of needy parents on government benefits by promoting job preparation, work and marriage; prevent and reduce the incidence of out-of-wedlock pregnancy; and encourage the formation and maintenance of two-parent families (Section 401(a)).

Proposal:

The federal government must dedicate a percentage of the SSBG and/or TANF block grant for competitive grants to states, Indian tribes or tribal consortiums, nonprofit child welfare service providers with experience in youth engagement strategies or to a consortium of these eligible entities to quantify the existing status of youth engagement in a state and develop and disseminate innovative strategies for improvement in the areas of: involvement; adult-youth relationships; frequency of youth involvement; diversity and ongoing input and feedback.

Permit demonstration grants for the purposes of determining the best case planning strategies for all youth in care.

6. Tax Incentives for Businesses

Current Law:

Under current law, businesses making in-kind charitable contributions to registered 501(c)(3) tax-exempt organizations may be eligible for a deduction. Corporations cannot claim a deduction in excess of 10% of their taxable income. In-kind donations, such as household items (furniture, electronics, etc.) may qualify for a deduction. Generally, donors can deduct the fair market value of donated property. Gifts of clothing and household items in excess of \$500 must be accompanied by a qualified appraisal. Currently, gifts made directly to individuals are not tax deductible. However, gifts made to a qualified charity which facilitates donations to individuals in need, may qualify for the charitable deduction (Internal Revenue Code (IRC) Section 170).⁵

Proposals:

Provide tax incentives to businesses that provide cell phones, computers and other social networking infrastructures to foster families and group homes.

Provide tax incentives to businesses, such as hotels, that contribute furniture to youth transitioning out of care.

⁵ For additional information see IRS Publication 526 “Charitable Contributions” for additional information.

Pregnant and Parenting Youth in Foster Care

Youth Experiences

I was 15 years old and pregnant, when I arrived at Crittenton Services Inc., in West Virginia in 2008 and on May 5th 2009 my daughter Alexis was born.

I was angry, aggressive and using drugs even while I was pregnant. Prior stays in foster homes were just temporary places—no connections or support and they really couldn't handle me. I would leave them and go back to my mother but things always fell a part. If I hadn't been pregnant I probably would have ended up in a detention facility because I had seven criminal charges pending against me. It's not an excuse, but I had a very tough childhood without any stability or structure because my mother had problems with alcohol and she was always in unhealthy relationships.

I needed the structure provided living at Crittenton to support me in breaking old patterns and to help me learn to be a good parent. While I was there I quit using drugs, was in therapy and caught up academically so when I was discharged I was at grade level. I decided to go and live with my grandparents when I left Crittenton because I knew living with my mother would not be good for my daughter and me. Today I am drug free, happy being a good mother and continuing to pursue my educational goals. I know that I could have ended up losing custody of my daughter and living on the streets as a drug addict and I'm grateful I got the support I needed.

Breanna, mother of Alexis—16 months old

My son is three years old and the most important thing in my life. Having him motivated me to get my life together so that I could provide him with a good home and all the love and support he needs. I've been at Florence Crittenton Services of Baltimore twice. I was sent to a foster home after my first stay at Crittenton but it didn't work out so I asked to be sent back and I've been there three years. I've had a tough life and was very angry, aggressive and defiant so I needed all the services I could get. By working hard and taking advantage of what was provided to me I was able to finish high school, learn parenting and anger management skills, and more. Today I'm working and attending community college. I've learned how to be a good parent—it's hard but I keep working on it every day because I want him to have dreams and believe in himself. I've learned to advocate for my son and me and in August we'll move to our own apartment.

Jessica, mother of three-year old son

OPTIONS FOR REFORM

1. Improved Data Collection

Current Law:

States are required to collect case-level data concerning each child or youth in foster care and to report those data to HHS via the Adoption and Foster Care Analysis Reporting System (AFCARS) (Section 479). There is no required AFCARS data element for reporting on pregnancies or births among youth in foster care, services provided, or outcomes specific to this population.

Beginning with October 1, 2010 states are required to survey youth who were in care at age 17 and to track the outcomes for those same youth (or a sample of the youth) at ages 19, and 21. Data collected must be reported to HHS via the National Youth in Transition Database (NYTD) and, among other outcomes, states must report case level data on the number of children fathered or birthed by these youth (Section 477(f)).

A significant data gap exists in the Child Welfare field about the number of pregnant and parenting youth in care. This has resulted in inadequate services and supports that could have reduced the entrance of their children into the system by keeping families together.

Proposal:

Require states to collect and report data about the number of pregnancies of youth in foster care, births to youth in foster care, children living with a parent who is in foster care, alternative permanency plans made for children of youth in foster care, services provided to pregnant and parenting youth in foster care, and outcomes for these young parents and children.

2. Specialized care for parenting youth in foster care

Current Law:

There are no federal training standards specific to foster family homes that provide care to a Title IV-E eligible foster youth who is a parent and whose child lives with the foster youth. At the same time, federal law authorizes additional support for these minor parents in foster care. Specifically, Title IV-E foster care maintenance payments are defined to include both a room and board payment for a Title IV-E eligible minor parent in foster care and those same costs for the child of that minor parent provided the child is not placed in foster care (i.e., under the care and placement responsibility of the state) but lives in the same foster care placement setting as the minor parent (Section

475(4)(B)). Federal law also mandates Medicaid coverage for both the Title IV-E eligible minor parent who is in foster care (Sections 472(h)(1) and 1902(a)(10)(A)(i)(I)) and the child who is living with that minor parent (Section 472(h)(2)).

Proposal:

Foster home placements for minor parents in foster care and their children should be considered "specialized," with additional training required of foster parents and social workers who care for and work with them. Clear standards for "certification" should be developed and monitored.

3. Resource Center

Current Law:

HHS funds multiple national child welfare resource centers – on a range of topics – as part of its larger network of information, training, and technical assistance intended to improve child welfare knowledge, practice, and state implementation of federal child welfare policy. Authority and funding for individual parts of this network may be generally authorized or specifically authorized in federal child welfare law. As specifically required under the Chafee Foster Care Independence Program, the National Resource Center for Youth Development is intended to increase the capacity and resources of states and tribes to provide high-quality services to youth in care, former foster youth, and older youth in at-risk situations. However, it does not have a specific mandate, related to pregnant and parenting youth in foster care (Section 477(g)(2)).

Proposal:

Establish a resource center for organizations that serve pregnant and parenting youth in the child welfare system. The dual development of very young parents with children make this population a unique challenge to families, organizations, and communities who want to support them. Additionally, this center could oversee standards and provide information for those wanting to establish programs to support young families.

4. Use of Chafee Foster Care Independence Program Funding

Current Law:

The Chafee Foster Care Independence Program provides funding for independent living services to children likely to age out of care and children who have emancipated from care. (Federal fiscal year 2010 funding for this program was \$140 million.) States are authorized to use those funds for a variety of purposes. Parenting education is not explicitly listed in the law as a service that can be provided. However, states may use the

funds for preventive health activities, which includes pregnancy prevention (Section 477(a)(1)).

Proposal:

The allowable uses of Chafee Foster Care Independence Program funding could be expanded to explicitly include parenting education.

Education

Youth Experience

Another key contributor for me while in care was being engaged at school. Early in my education I began getting involved with extracurricular activities. It was my outlet to direct the negative situations I experienced at home. Entering care I was not certain how that would be affected. However, I was allowed to remain involved at school – something many foster youth are unable to do. During my high school career I served on leadership teams for my class, student council, and the Future Business Leaders of America. I was actively involved in the National Honor Society, acting in drama club, Upward Bound, and Science Olympiad. Having the opportunity to explore my interests and build on my strengths was a priceless experience for me. It provided me with support and stability which I feel are two key elements to learn in order to have a successful transition from foster care. Youth engagement also allowed me to build confidence in myself and taught me that I can be successful. My experience with engagement also prepared me for leadership opportunities in college. For example, I have served on executive boards for Phi Sigma Pi—co ed national honor fraternity, the Student Community Action Team, and the International Association of Business Communicators. If I hadn't had the opportunity to be involved while I was in foster care I know I would not be in the position I am today.

Ashley Jackson, Age 21, 5 years in foster care

OPTIONS FOR REFORM

Elementary and Secondary Education

1. Clarification of Education Policy from Fostering Connections to Success and Increasing Adoptions Act of 2008

Current Law:

When a child is placed in foster care, states are required to take into account the appropriateness of his or her current educational setting and its proximity to the foster care placement setting (Section 475(1)(G)(i)). Further, as added by the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Section 204 of Public Law 110-351), states, through their child welfare agencies, must plan for the educational stability of children in foster care by coordinating with local educational agencies (LEAs) to ensure that a child remains in the school in which he or she was enrolled at the time of foster care placement, or, if this is not in the child's best interest, to provide

immediate and appropriate enrollment in a new school, with all of the education records of the child provided to that school (Section 475(1)(G)(ii)).

States are permitted to seek Title IV-E reimbursement for a part of the cost of providing transportation that enables a child to remain in the school in which he or she was enrolled prior to placement in foster care. States may claim this federal Title IV-E support as part of a child's foster care maintenance payment or as a general administrative cost under the Title IV-E program, but only on behalf of those children in foster care who meet federal (Title IV-E) eligibility criteria (Section 475(4), 474(a)(1), and 474(3)(E)). Currently it is estimated that less than half of all children in foster care meet those federal eligibility criteria.

Under the McKinney-Vento Education for Homeless Children and Youth program, a state, through its state educational agency (SEA) and local educational agencies (LEAs), must take steps to ensure that children who are homeless (defined to include children or youth "awaiting foster care placements" and those "living in emergency or transitional shelters") have equal access to the same, free and appropriate public education as other children. Among other things, this includes granting a homeless child or youth the right to remain in the school he or she attended before losing permanent housing ("school of origin"), requiring LEAs to provide a homeless student with transportation to his or her school of origin, and providing immediate enrollment for a homeless student who does change schools. Further, each SEA must appoint a coordinator who is required to develop and carry out a state plan for the education of homeless children and youth. McKinney-Vento grants (FY2010 funding: \$65 million) are allocated to SEAs in proportion to grants made under Title I- A of the Elementary and Secondary Education Act (ESEA). SEAs subgrant McKinney-Vento funds to LEAs competitively to be used to facilitate the enrollment, attendance and success in school of homeless children and youth. Each LEA – whether or not it receives such a subgrant – must establish a local liaison for homeless children and youth. For school year 2008-2009, approximately 1,700 LEAs, out of a total of more than 15,000 in the nation, received McKinney-Vento funding. (Sections 721-726 of the McKinney-Vento Homeless Assistance Act).

As a condition of receiving partial federal reimbursement under Title IV-E (for foster care, adoption assistance and kinship guardianship assistance costs incurred on behalf of children who meet the relevant federal eligibility criteria) states are required to develop a Title IV-E state plan that is approved by HHS as meeting the federal program requirements (Section 471(a)).

Federal funding under Title I-A of the Elementary and Secondary Education Act (ESEA) is provided to LEAs with high numbers or percentages of economically disadvantaged children to ensure that all students meet the same challenging state academic content and achievement standards. As a condition of receiving this funding, the SEA in consultation with LEAs and other stakeholders must develop a state plan that is

approved by the Department of Education as meeting the federal program requirements for receipt of the funding (Section 1111 of the ESEA).

Proposal:

By the beginning of the school year after the date of enactment a state's education agency, working with the state's local education agencies and a state's child welfare agency, in consultation with the state's juvenile justice agency must develop a plan to comply with Section 204 of the "Fostering Connections to Success and Increasing Adoptions Act of 2008," which requires that states provide for the educational stability of children and youth in foster care.

Specifically, a state's education agency working with the state's local education agencies and a state's child welfare agency, in consultation with the state's juvenile justice agency must develop an equitable system for -- the reimbursement of costs associated with the reasonable travel of children and youth in foster care; the determination of best interests with regard to enrollment of a child in a given school; sharing of necessary records to allow education planning and immediate enrollment as appropriate; and any other issue that arises as part of complying with the law. This system must also include a mechanism for dispute resolution in the event there is a disagreement between the SEA and the state child welfare agency.

The SEA and state child welfare agency may extend protections under the McKinney-Vento act in order to comply with this requirement.

If the SEA and the state child welfare agency cannot develop a mutually agreeable plan by the beginning of the school year after the date of enactment, the Governor establish a dispute resolution protocol and has the option to either:

- Require that the SEA and state child welfare agency equally divide the costs associated with the reasonable travel of children and youth in foster care in order to comply with the law, or
- Extend protections under the McKinney-Vento Act in order to comply with this requirement.

The state must comply with this provision in order to qualify for Title I education funds as well as to qualify for reimbursement under Title IV-E of the SSA.

Finally this proposal would clarify that states are required to plan for educational stability for children entering foster care as well as those who are in foster care but are moved to a different placement while in care.

Post Secondary Education

1. Education and Training Vouchers (ETV)

Current Law:

The Chafee Education and Training Voucher Program (ETV) is available for children who left foster care after reaching the age of majority or those who left foster care for adoption or guardianship after attaining 16 years of age. The program is administered within HHS by the Children's Bureau, (which also administers the Title IV-E foster care program). The ETV program authorizes provision of vouchers, worth up to \$5,000 annually, per eligible youth, for the cost of full-time or part-time attendance at an institution of higher education (as defined by the Higher Education Act). "Cost of attendance" refers to tuition, fees, books, supplies, equipment and materials, room and board, and related expenses. Students are eligible for the vouchers if they are in good academic standing and making progress toward completing their program or graduating, though states may have additional requirements. Only youth receiving a voucher at age 21 may continue to participate in the voucher program until age 23 (Section 477(i)). For federal fiscal year 2010 the Chafee ETV program received federal funding of a little more than \$45 million.

The Higher Education Act includes several provisions intended to increase ability of former foster youth to attend college and succeed. These include granting "independent" status to any child or youth who was in foster care at age 13 or later (without regard to the reason a youth left care) for purposes of determining eligibility for federal financial aid (Section 480(d) of the Higher Education Act) and specified access to, or priority for, services and supports provided under a range of federal competitive grant programs intended to encourage college attendance and graduation for disadvantaged youth (Sections 402A-402H and 404A-404E of Higher Education Act).

Proposals:

Transfer jurisdiction of ETV funds for former foster youth from the Department of Health and Human Services to the Department of Education. Because the Department of Education already has the mechanism in place to disburse funds (financial aid) for higher education the administrative costs for this program could be absorbed and reduced, enabling the savings to be reinvested into the ETV allotment.

Require HHS and ED to collaboratively develop a report or other publicly accessible resource that details federal financial aid available for youth who were formerly in foster care, any special federal financial aid rules that may apply to these youth, and any federal post-secondary education supports or services available to them. Require these same agencies to establish regular communication on administration of financial aid to

youth formerly in foster care and to regularly update the report or publicly available resource.

Permit a youth to receive an initial ETV any time up to the age of 25 but limit total number of years for which a youth may receive this support to a total of 4 years.

2. Residency for Current and Former Foster Youth

Current Law:

Child welfare law does not address residency requirements for purposes of establishing eligibility for in-state tuition at institutions of higher education. At least one other law, the Higher Education Act (HEA), addresses such requirements for certain military-related individuals. Under HEA, a state may not charge tuition above that charged for residents of the state for any active members of the armed forces (or their spouses or children) whose domicile or permanent duty station is in the state. This provision is applicable to each public institution of higher education in a state that receive assistance under the HEA (Section 135 of the Higher Education Act).

Proposal:

Provide a mechanism by which former foster youth can establish in-state residency in a state other than their home state, similar to dependants of military families. Former foster youth often settle into attending universities in their home state simply because they have to pay more for out-of state tuition. This change would allow former foster youth to attend the school that best suits their academic interests and needs.

3. Improvements to the Chafee Foster Care Independence Program (CFCIP)

Current Law:

The Chafee Foster Care Independence Program provides funding for independent living services to children expected to leave foster care because they reach the age of majority (age out) and youth who have already aged out. States are authorized to use those funds for a variety of purposes. These include helping youth who are expected to remain in foster care until their 18th birthday prepare for and enter post-secondary training and education institutions; to provide education support and services to former foster care youth between 18 and 21 years of age; and to make available vouchers for education and training, including post-secondary education and training for youth who have aged out of foster care (Section 477(a)).

As a condition of receiving Chafee Foster Care Independence Program funding, states must submit a plan for providing services under CFCIP, including a number of certifications regarding how the plan will be carried out. Among these, the state must

certify (through its governor) that it will make every effort to coordinate state programs that receive CFCIP funds with certain other federal and state programs for youth, including transitional youth projects funded under the Juvenile Justice and Delinquency Prevention Act, abstinence education programs, local housing programs, programs for disabled youth, and school-to-work programs offered by high schools or local workforce agencies (Section 477(b)(3)(F)).

The “TRIO” programs, administered by the Department of Education, include six federal outreach and student services programs targeted to serve and assist low-income individuals, first-generation college students, and individuals with disabilities to progress through the academic pipeline from middle school to post-baccalaureate programs. Funds are awarded competitively to institutions of higher education and/or other service organizations. The Department of Education must, as appropriate, require each applicant for TRIO program funding to identify and make available services under the program, including mentoring, tutoring, and other services a given TRIO program supports, to homeless youth, youth in foster care, and youth who left foster care after reaching age 13. In FY2010, federal funding appropriated for TRIO programs totaled more than \$910 million, which was awarded to more than 2,900 grantees (Sections 402A – 402H of the Higher Education Act).

The Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) provide competitive grant funding for states or partnerships (including one or more local educational agency and one or more institution of higher education, and which may include other public or private organizations or entities) to provide information to parents and students about the advantages of obtaining a postsecondary education and options for financing a college education; as well as to provide financial assistance, academic support, counseling, mentoring, outreach, and other services to secondary school students to reduce the risk of these students dropping out of school and the need for remedial education for these students at the post-secondary education level. Children in foster care (who are eligible for assistance under Title IV-E) are among the priority student groups to be served by certain GEAR UP grantees. In FY2010, the program received \$323 million in funding, which was awarded to more than 200 grantees (Section 404A-404E of the Higher Education Act).

Proposals:

Establish competitive grants for states and other eligible entities to develop innovative educational support activities.

Add the federal TRIO and GEAR UP programs to the list of programs that States are required to certify they will coordinate with CFCIP-funded programs.

Family Preservation/Permanency

Youth Experiences

"I left foster care when I found permanency at age sixteen by being adopted into my then foster family. When I was in foster care but without the permanent family, I couldn't stop asking "Where will I go when I turn eighteen?" I had no plan at that time, no significant savings, and felt like there was no one to help me. Sure, there were a few distant relatives that I had briefly been in touch with, but I did not feel that I could count on them to give me the long term support I needed. I also did not want to be a burden. A fourteen-year-old should not be planning for the rest of their lives like this, rather, should be engrossed in the aspects of teenage-hood. Nonetheless, I was without that permanent feeling of having a place to call home, and since leaving my birthmother's abusive home, I was used to hearing things like "No one wants you anyways." I heard it so frequently that I started to believe it. But something in me told me to stay determined, and I did. Eventually I got involved in my own case and permanency decisions."

Crystal Lipek; Age 22, 7 years in foster care

"As a foster kid I used to hate the holidays because I wasn't with my family. After my father died, the holidays were never the same. In foster care I was able to go home but only on Thanksgiving and Christmas days. Going home on those two days or even for the weekend wasn't enough. I often felt like an outsider because I was just a foster kid, especially during the holidays. I struggled emotionally when my foster family celebrated the holidays because I wanted to feel what they were feeling. Even though I was included in all of the holiday celebrations I often felt left out because to me I was just "borrowing" their family and ultimately their joy. The holidays never felt special. At Christmas time I felt so guilty when my foster mom bought me gifts because I knew she didn't have to and sometimes I felt like she bought them because she was obligated to. If she bought gifts for me I felt guilty and if I didn't receive gifts I would have felt unloved. It was really a "no win" situation."

Daniel Knapp; Age 28, 5 years in foster care

"I aged out of the foster care system five years ago. I remember it as though it was yesterday! I graduated from High School the June before my eighteenth birthday. My plan was to move in with my biological sisters in Hawaii a week after graduation. I'd planned to attend a community college and work full time. That same year, I also graduated from California's Independent Living Program (ILP). The program had given me silverware, a microwave, a duffle bag and a few other household necessities. This farewell and good luck package was supposed to ensure that foster youth "made it" once out of the program. I remember everyone being so excited for me because I was one of the "prepared" ones out of my group. I was the one everyone expected to succeed. I was supposed to have it all together, but the truth of the matter is that I was terrified, but I felt like I could not let anyone know. If I were to speak it, it might convey the

message that I was weak and unprepared; I would be letting the system down. And what if I were going to fail? What could anyone do for me? I was turning 18 and it was my time to go. If I did not have it all together, then it was my fault.”

Joscelynn Crowley-Murdock
Age 25, 10 years in foster care

OPTIONS FOR REFORM

1. Additional Family Preservation Grants

Current Law:

States receive capped funding under the Promoting Safe and Stable Families (PSSF) program (Title IV-B, Subpart 2) of which a “significant” portion (defined by HHS as 20% unless the state can provide good reason) must be devoted to each of four categories of services to children and families. One of those categories is family preservation services. Out of all funds provided for PSSF in federal fiscal year 2010, states received \$356 million for services to children and families, of which they were expected to spend at least \$71 million on family preservation services. States receive addition capped funding under the Stephanie Tubbs Jones Child Welfare Services Program (Title IV-B, Subpart 1) which is available for a wide range of child welfare purposes that may include provisions of family preservation services. Federal funding for all purposes under this program was \$282 million in federal fiscal year 2010.

States are permitted to use funds provided under the TANF block grant for four basic purposes, including to “provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives” (Section 401). Further, states that provided certain time-limited emergency assistance to families under the Aid to Families with Dependent Children (AFDC) program – the predecessor to TANF – may continue to provide those same services under TANF (Sec. 404(A)(2)). Separately, states are directed to use funds provided under SSBG to meet five general goals, including “preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating or reuniting families” (Section 2001).

For state fiscal year 2006, the most recent data available, the Casey Child Welfare Financing survey reported that states spent an estimated \$2.4 billion in federal TANF and \$1.6 billion in SSBG funds through their child welfare agencies. Although the significance of this funding to a given state’s total child welfare resources varied considerably, every state but one

reported spending at least some federal TANF or SSBG funding in this manner.⁶ Most of this funding appears likely to have been spent on services for children (and their families) who were at-risk-of entering foster care or in foster care. However some states report spending certain TANF dollars to provide foster care maintenance payments.

Proposal:

Dedicate a percentage of TANF/SSBG block grants for family preservation grants, especially those targeted towards addressing substance abuse and child neglect.

2. Flexible Funding

Current Law:

Every state is entitled to receive reimbursement for one-half (50%) of allowable administrative costs it incurs in carrying out the state's Title IV-E plan related to foster care, adoption assistance and (if state elects) kinship guardianship assistance. Title IV-E administrative costs which are reimbursed at this rate include caseworker activities on behalf of an individual child (e.g., referral to services, preparation for, and participation in, judicial determinations, placement of the child, development of the case plan, case reviews, and case management and supervisions); program eligibility determination; recruitment and licensing of foster family homes; rate setting; a proportionate share of agency overhead; and others costs necessary for the "proper and efficient" administration of the state plan (e.g., costs related to locating and notifying adult relatives of a child entering foster care or costs to provide transportation to permit siblings visits) (Section 474(a)(3)(E); 45 C.F.R. 1356.60)).

Proposal:

Allow states to agree to a set amount of Title IV-E general administrative funds in exchange for flexibility in the use of these funds.

3. Family Locator Activities

Current Law:

States must "exercise due diligence" to identify and give notice to the grandparents and other adult relatives of a child who enters foster care. This identification and notice must happen within 30 days of a child's removal from his or her parents and is subject to exceptions due to family or domestic violence (Section 471(a)(29)). States may claim federal

⁶ Kerry DeVooght, et al, *Federal, State and Local Spending to Address Child Abuse and Neglect in SFY2006*, Children Trends, Casey Family Programs and The Annie E. Casey Foundation (December 2008).

reimbursement under Title IV-E for allowable administrative costs related to locating and providing notice to adult relatives of children removed from their home, provided those children are eligible for federal assistance under Title IV-E (Section 474(a)(3)(D) of the SSA).

Proposal:

Allow for federal reimbursement for family locator activities that begin after removal of the child or youth from his or her home and conclude at a certain point following the child or youth's placement in foster care.

4. Youth Tools for Permanency

Current Law:

No provision.

Proposals:

As a condition of the receipt of Title IV-E funds, a state must develop a "permanency pact" and must encourage all youth in care to complete this pact. The permanency pact must be made available to all youth in foster care regardless of their placement setting and must also be posted on the Internet.

As a condition of the receipt of Title IV-E funds, a state must have policies and practices to ensure that all youth emancipated from care are equipped with the following: a social security number, a driver's license, a birth certificate, all medical and education records, and a copy of the youth's transition plan.

5. Reimbursement for Sibling Groups

Current law:

Under Title IV-E, states are required to make foster care maintenance payments – sometimes referred to as a room and board payment – for each eligible child in foster care (Section 471(a)(1)) and they are entitled to federal reimbursement for part of the cost of providing that payment. The federal reimbursement rate for these payments – that is the part of cost reimbursed by the federal government – is equal to a state's federal medical assistance percentage (FMAP). Each state's FMAP is adjusted annually and may range from 50% (in states with higher per capita income) to 83% (in states with lower per capita income). Further, under Title IV-E states may claim partial federal reimbursement for certain eligible administrative costs (50%), and for certain eligible training costs (generally 75%) under the Title IV-E program (Section 474(a)(3)).

Proposal:

Increase the IV-E matching rate for states and for foster family homes that are providing care to sibling groups.

6. Child Support Enforcement

Current law:

Under Title IV-E, state child welfare agencies are required, where appropriate, to take all steps, including working with state Child Support and TANF agencies, to secure an assignment to the state of any rights to child support on behalf of a child receiving a Title IV-E foster care maintenance payment (Section 471(a)(17)). State Child Support agencies must send a specified part of any child support collected on behalf of a Title IV-E eligible child in foster care to the federal government (as partial reimbursement for its support of this child) and the remaining funds may be used by the state to reimburse its part of the cost of providing foster care to this child (Section 457(e)).

Proposal:

Eliminate a state's ability to collect child support payments from a parent prior to the termination of the parental rights.

Alternatively, allow a state to collect child support payments on behalf of a child in care, but require that those payments are passed through to an account set up on behalf of the child or youth in care.

FINANCING REFORM

A key element to systemic child welfare reform will be a recalibration and a reordering of priorities in the child welfare/foster care system. These principles could provide the foundation for achieving consensus on systemic child welfare financing reform.

Principles of Financing Reform

- Abused or neglected children or youth in care should have the protection of both the Federal Government and the states. Unless a financing realignment occurs, the Federal role in child welfare financing will continue to diminish.
- A child or youth in care or a vulnerable family should be served regardless of a family's income. Abuse and neglect occur in all types of families with a range of incomes. If child welfare programs were not means tested, case workers could focus more attention on case and less on establishing a household's income.
- No child or youth or family is the same, so child welfare and family support systems should be able to adapt to a child and a family's unique circumstances and needs.
- Every child or youth in care can achieve measurable, positive outcomes if they are provided with the right types of supports. It is possible to hold states accountable for positive permanency and well being outcomes for children and youth in care, especially if that accountability is partnered with increased state flexibility.