

Family First: What Legislators Need to Know
By Senator Sara Gelser and Jamie Hinsz (LPRO)

What is Family First?

Family First is federal legislation passed in early 2018 by the US Congress. The lead sponsors of the bill were Senators Ron Wyden and Orrin Hatch. The goal of the policy is to increase efforts to safely preserve families and reduce the use of congregate care facilities for foster youth. The key provisions we are paying attention to are changes related to congregate care and prevention services.

What are the prevention services changes?

Under Family First, states will be able to claim federal matching funds for services provided to families BEFORE they are removed from the family home. This means that instead of having to remove a child before providing kids and families with access to things like counseling, parent education, parent child interaction therapy, drug and alcohol treatment, anger management, etc. we can do it before anyone is ever hurt.

What's the catch?

There are two catches.

- 1) The state cannot access any prevention money until it implements significant changes in its congregate care programs.
- 2) The state can only get federal match for prevention programs that are evidence based and approved on a list by HHS.

When does this happen?

States can start drawing down the prevention dollars on October 1, 2019, but only if the congregate care changes are made. States can choose when to make the changes, but after October 1, 2021 states will not be able to claim federal match for congregate care placements that do not meet the new federal standards.

What are the congregate care changes?

Under the new law, kids are required to be placed in family like settings with no more than 6 children unless an evidence based assessment demonstrates they need a higher level of care.

This higher level of care would be provided in something called a QRTP, or Qualified Residential Treatment Program.

How does a program qualify as a QRTP?

To be a QRTP, the program has to offer a trauma informed program, be licensed by the state and be accredited by a national agency. It has to have access to 24/7 nursing care (not necessarily on site—it can be contracted.) It also has to provide up to six months of family based after care, and keep families engaged throughout the length of the placement.

How is a child placed in a QRTP?

To be placed in a QRTP, the child has to have an evidence based assessment that is completed no later than 30 days after placement in the program. The assessment has to be a validated and evidence based tool that is approved by HHS. The assessment has to be administered by a “Qualified Individual” (QI) and the QI’s report must be submitted to the court for approval no more than 60 days after the child is in the placement. If the assessment does not demonstrate the child is in need of the QRTP, the child must be moved.

What is a QI?

A qualified individual is a social services professional or medical professional that is not employed by DHS, OHA or any program that serves kids. The final report must include the strengths and needs of the child, short and long term treatment goals, the results of the assessment and a recommendation about whether QRTP level of care is needed, and whether the proposed placement is appropriate.

Can the QI use the CANS assessment?

We don’t know yet. Oregon is one of several states that uses CANS, which is a free online assessment developed by the University of Chicago. The federal statute requires that the assessment tool be validated and evidence based. CANS is not currently considered a validated and evidence based assessment.

What is Oregon doing about all of this?

We convened a three branch group last spring that has been meeting regularly to provide information to HHS and to coordinate Oregon’s response. So far, we have submitted comments to the federal register regarding evidence based practice requirements and family foster care standards. We have also completed a comprehensive statewide inventory of current prevention practices and provided that to HHS in an effort to advocate for inclusion of our most effective practices on the list of approved services.

Is there legislation?

Yes. SB 171 (formerly SB 815) sets up the QRTP system in Oregon by giving the Department authority to pay QRTPs and aligning our placement and licensing requirements to the federal law.

What’s in SB 171?

The bill has been developed in collaboration with multiple agencies. It establishes the criteria for QRTPs in Oregon, establishes the evaluation and court approval process, and implements provisions to safeguard a continuum of service options for shorter term placements. The bill also addresses some issues related to Out of State Placements of foster children.

Can Oregon place kids in non-QRTPs?

Under SB 171 Oregon would still be able to place kids in these settings without meeting the QRTP standard:

- Residential programs that are nationally accredited and licensed by OHA for the provision of psychiatric services (PRTF or subacute services)
- Residential programs that provide short term stabilization, assessment and crisis services to kids for up to 60 days in a year
- Proctor care administered by child caring agencies
- Programs specifically serving victims of sex trafficking and pregnant and parenting youth
- Independent Living Programs
- Transitional living, runaway and homeless shelters

When would the bill go into effect?

The amended bill would impose the new requirements for placements in congregate care on July 1, 2020. Though the group tried to prepare for an October 1, 2019 implementation date it is not feasible to do that safely. It is anticipated that by July 1, 2020 our providers will be able to make it through the accreditation process so they are eligible as QRTPs.

Will our programs be able to be QRTPs?

Right now, 10 out of 12 providers have started the process to become accredited. The other two are planning to do so. We are providing grants to help with the costs and workload related to this process.

Will this impact provider rates?

SB 171 does not make any changes to provider rates, however this is an essential discussion in February. The bill requires the Department to report back to the Legislature by this September about recommended changes to our provider rate structure in order to comply with the additional services required by the federal law.

Is there anything else in SB 171?

SB 171 also addresses issues of out of state care by identifying the minimum standards for placing a child out of state. Under SB 171, after September 1 DHS would only be able to place a child in an out of state placement in specific circumstances:

- It is a medically appropriate PRTS approved by a physician
- It is a clinically appropriate program for sexually maladaptive behaviors
- It is a QRTP and the assessment indicates the child needs the program, just as in Oregon.

The out of state program would also need to meet, at a minimum, Oregon's licensure requirements and extend to kids the same rights and protections they have under Oregon law. The bill prohibits the placement of children with intellectual and developmental disabilities in segregated facilities or institutions. It also requires a report back from DHS by September identifying a plan for returning children home, building needed capacity in Oregon, and outlining all program costs including facility rates, travel, monitoring, licensing and investigation.

The bill also clarifies that children and youth that are in DHS care as foster youth must be placed in programs designed for foster youth. They are not to be placed in facilities for youth offenders or youth being served by a county Juvenile Department unless the youth is concurrently served by DHS and one of these agencies.

When do we get the prevention dollars?

If we implement the residential changes on July 1, 2020 that will be the first date that we can draw down prevention dollars. We updated SB 221 with an amendment to reflect this.

What about Oregon's Title IVE waiver?

This waiver expires when the new federal law goes into effect. Family First does not allow any future waivers. This means services funded under our waiver need to be addressed through general fund or replaced with Family First eligible programs.

Are there any companion bills?

Yes. SB 181 is necessary to allow county juvenile programs to claim Title IVE payments for eligible youth in their programs.