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# FAMILY FIRST PREVENTION SERVICES ACT (FFPSA)

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The [Family First Prevention Services Act of 2018](#) (also referred to as FFPSA) was signed into law as part of the Federal [Bipartisan Budget Act of 2018](#) (H.R. 1892). FFPSA creates opportunities for Title IV-E federal funding reimbursement of services that are aimed at preventing a child's entry into foster care. Services include support for mental health, substance abuse, and other supports for parents. FFPSA has four central provisions aimed at increasing prevention services, support to kinship caregivers, addressing congregate care, and older youth.

## A. Prevention Services

FFPSA allows for a 50% matching of federal Title IV-E funds for states who invest in evidence-based prevention services for families with children who are at imminent risk of entering the foster care system. Programs can address mental health, substance abuse, and parenting skills and supports and must meet certain criteria set out in FFPSA for reimbursement eligibility.

## B. Kinship Caregivers

Additional support for kinship caregivers is provided through a Kinship Navigator program. The program links kinship caregivers to a range of support and services. At this time, Texas does not have any approved Kinship Navigator programs, but caregivers can receive support through their DFPS kinship caseworker. Please see [DFPS' Kinship Care page](#) for related resources.

## C. Congregate Care

In an effort to reduce the number of children in congregate care, Title IV-E federal fund reimbursement is available to children in foster homes, qualified residential treatment programs (QRTPs), and special settings for pregnant or parenting teens, youth transitioning out of foster care, and youth who are at risk for sex trafficking. QRTPs have a very specific model as defined within FFPSA, including court oversight.

## D. Older Youth

FFPSA extends the age for independent living services for young adults formerly in foster care up to age 23 and extends eligibility for Education and Training Vouchers (ETV) for qualifying youth to age 26. For more details about services for transitioning youth, see the [Post-Secondary Opportunities section](#) of the *Education* chapter in this Bench Book.

## E. Family Preservation Services Pilot Program

Under [Tex. Fam. Code § 262.402](#), the Family Preservation Services pilot program allows DFPS to dispose of an investigation by allowing the child to return home and providing time-limited family preservation services—subject to Family First Prevention Services Act (FFPSA) qualifications—to children who are candidates for foster care or pregnant and parenting foster youth. The pilot program must be implemented in one urban and one rural jurisdiction and at least one jurisdiction where Community Based Care has been implemented. The child's safety must be the primary concern in authorizing services. DFPS must use Title IV-E Funds to pay for legal representation or provide

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counties with a matching reimbursement for the costs of legal representation and use the Texas Temporary Assistance for Needy Families (TANF) program or other department funds to provide in-home support services. DFPS must obtain a court order to compel the family of a candidate for foster care to participate in services but need not obtain a court order to provide services to pregnant or parenting foster youth. [Tex. Fam. Code § 262.403](#).

DFPS must file a petition in the jurisdiction where the child is located, and the petition must be accompanied by an affidavit stating sufficient facts for the court to make the required findings. The petition must also include a safety risk assessment that documents the process for the child to remain at home with appropriate family preservation services, the specific reason that DFPS should provide services to the family, and the manner in which the services will mitigate the risk. The court must hold a hearing within 14 days of filing the petition, may grant a 14-day extension for good cause, and may render temporary restraining orders per [Tex. Fam. Code § 105.001](#). Services may be provided to the child or any siblings of the child. [Tex. Fam. § Code 262.404](#).

Attorneys ad litem for parents and children must be appointed when the petition is filed. However, if the parent is not found indigent, the attorney for the parent may be dismissed at the 14-day hearing and the court shall order the parent to pay the attorney's cost. [Tex. Fam. Code § 262.405](#).

The court must deny the petition unless it makes findings under the ordinary prudence and caution standard that abuse and neglect has occurred, or there is substantial risk of abuse or neglect or continuing danger, and that family preservation services are necessary to ensure the physical health or safety of the child and family preservation services are appropriate based on the risk assessment. The court's order for family preservation services must identify and require specific services narrowly tailored to address the issues and include a statement whether the services are appropriate to address the risk factors. The court may order services for a parent whose rights to another child were terminated. If the court finds clear and convincing evidence that aggravated circumstances exist, the court may order that services not be provided. [Tex. Fam. Code § 262.406](#).

The family preservation plan must be developed with the family and be written in a manner that is clear and understandable to the parent in a language the parent understands. The plan must include a safety risk assessment, the reasons for DFPS involvement, be narrowly tailored to address the concerns, list the specific services the family will receive, state the manner by which the services mitigate the risk factors, specify the tasks the family must complete, and include contact information for DFPS or SSCC staff who will be the point of contact for the family. [Tex. Fam. Code § 262.407](#).

The family must sign the plan, but DFPS may submit the family preservation services plan without the parents' signatures if they refuse to sign. The plan remains in effect for 180 days unless the plan is amended or revoked by the court. A person affected by the plan may make a motion to modify at any time. [Tex. Fam. Code § 262.408](#).

The plan may be amended at any time and if the parents are not willing to participate in amending the plan, DFPS can submit the amended plan without the parents' signatures. The amended plan is then valid for 180 days. [Tex. Fam. Code § 262.409](#).

The court may review the amended plan, render additional orders, and omit any service the court deems inappropriate or not narrowly tailored. [Tex. Fam. Code § 262.410](#).

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A parent may obtain services from a qualified provider of their choosing, but the parent is responsible for the cost and the provided services must be similar in scope and duration to the services in the service plan. The parent, managing conservator, guardian, or other member of the household who successfully completes the required services must obtain verification from the service provider. [Tex. Fam. Code § 262.411](#).

Court orders must be reviewed in 90 days and set subsequent reviews every 90 days as needed. [Tex. Fam. Code § 262.412](#).

The court may extend the order for 180 days upon a showing by DFPS of a continuing need for the order. The court may grant an additional 180-day extension if the court finds that the extension is necessary to complete the services ordered, DFPS made a good faith effort to provide services, the parent made a good faith effort to complete services, completing services is necessary to ensure the child's safety, and the extension is requested by the parent or their attorney. [Tex. Fam. Code § 262.413](#).

The case shall be dismissed once the order expires. [Tex. Fam. Code § 262.414](#).

DFPS may contract for services, including contracting with a Single Source Continuum Contractor (SSCC) to provide services in areas with Community-Based Care (CBC). Courts may order services not subject to FFPSA but must identify a method of financing the services and who will pay for them. [Tex. Fam. Code § 262.415](#).

## **F. Resources**

### **1. American Bar Association**

The ABA Center on Children and the Law created the [Family First Prevention Services Act of 2018, A Guide for the Legal Community](#) (2018) which helps the legal profession understand the FFPSA, identify opportunities for legal advocacy and judicial decision making, and support the implementation of the FFPSA.<sup>61</sup>

### **2. Department of Family and Protective Services**

[DFPS website](#) and [DFPS presentation on FFPSA and implementation](#)

Family First Act [website](#)

[QRTP website](#)

