

**Donaldson Adoption Institute Comments on
Senate Finance Committee Ranking Member Sen. Wyden's
May 5, 2015 Child Welfare Funding Proposal
June 12, 2015**

The [Donaldson Adoption Institute](#) (DAI) respectfully submits the below comments on Sen. Wyden's (D-OR) discussion draft of legislation that would align child welfare funding with the critical goals of supporting families and preventing unnecessary foster care placements.

Since 1996, DAI has worked to improve the lives of children and families across our country and around the world through research, education and advocacy that has led to better laws, policies, practices and perceptions. To achieve our goals, we investigate the issues of greatest concern to first/birth families, adopted persons, adoptive/foster families, the people who love them and the professionals who serve them. We then determine best practices and offer policy recommendations working with a broad array of partners in educational efforts and advocacy campaigns.

DAI appreciates the Senator's commitment and efforts to improve permanency and safety outcomes for children in vulnerable families, as well as seeking comments from stakeholders. DAI strongly supports the proposal's objectives "to help keep children safe and supported at home with their families," "prevent the need for out-of-home placements of children or to reduce the time children spend in foster care," and invest in evidence-based programs.

In general, DAI encourages Congress to dedicate resources to prevent instability before children are at-risk of removal from their families. A recent article in *Future of Children* "conclude[s] that CPS [Child Protective Services] has limited ability to influence child health [including physical, social-emotional, behavioral, cognitive, and mental health and development], because it primarily intervenes only after harm has occurred and because a combination of resource constraints and a relatively narrow mandate means that CPS focuses on only a small proportion of children and families."ⁱ

Primary and secondary prevention approaches, such as informal supports and home visiting, on the other hand, identify and address risk before child protective services involvement. Prevention programs can circumvent the negative impacts of instability on children and entail less intensive and less costly services than interventions to address crisis situations. They are also tailored to address the most common reasons that children enter care at different stages -- neglect and parental substance abuse for children from birth to age five and child behavior problems for teens.ⁱⁱ Prevention fulfills many child welfare policy objectives, including the Adoption Assistance and Child Welfare Act's requirement that states make "reasonable efforts" to prevent children's removal from their homes, the Child Abuse Prevention and Treatment Act's purpose "to better strengthen and support families to reduce the likelihood of child abuse and neglect," and the Promoting Safe and Stable Families requirement that states prevent maltreatment and provide family support services "to promote the safety and well-being of children and families" and "increase the strength and stability of families."

Below, DAI offers comments and recommendations on the proposal to help advance these goals, with a focus on incentivizing effective prevention strategies to strengthen family stability and enhance child well-being. The remarks are organized around the proposal's sections and order.

Section 2 Findings

DAI recommends adding "well-being" as a goal in subsections (3) and (5) (as in §3(b)(2)), because it has been recognized as a critical outcome, in tandem with "safety" and "permanence," since the implementation of the Adoption and Safe Families Act.

Section 3 Time-Limited Family Services Under Part E of Title IV of the Social Security Act

Subsection (a) Time-Limited Family Services Defined, amending SSA §475 Definitions

DAI recommends:

- Defining "time-limited family services" in §(13)(A) to include a purpose phrase (e.g., to support children and families to prevent foster care placements), as the services funded under the Promoting Safe and Stable Families program do,
- Extending services beyond the 12-month time limit in §(13)(A) because children and families may not be provided services until several weeks after case plans are developed, which also could impact the validity of benchmark measurement in subsection (b) (creating §(e)(3)),
- Clarifying in §(13)(A) that families have access to after care services after 12 months, and when necessary, those families who had previously been served for 12 months (or less) may access the services again,
- Including intensive therapeutic behavioral and mental health counseling in §(13)(B) family services,
- Changing §(13)(D) so that primary and secondary prevention services are available to children/youth before they are already in the "system" (not just to those children who have "case plans," are in "judicial proceedings," or are in foster care),
- Amending §(14) that defines a candidate for foster care as "a child who is identified at being at imminent risk of entering or re-entering foster care, as specified in the child's case plan or as designated in a judicial proceeding" by removing imminent, and
- In addition to §(14) children whose adoption or guardianship arrangements are at risk of disruption, including those at-risk of dissolution and post-adoption placement (after adoption legalization).

Subsection (b) Requirements, amending SSA §471 State Plan for Foster Care and Adoption Assistance

DAI recommends:

- In requiring states to provide family services, removing the option for states that would be added to §(a)(1) ("at the option of the State") and new §(e)(1) "Requirements for Time-Limited Family Services" that also would give states discretion to provide such services ("A State may provide time limited family services"),
- In mandating minimum state spending, change §(e)(2)(B) to 25 percent from 50 percent spending on "evidence-based programs" and to 50 percent from 25 percent on "evidence-

based programs” or “promising program models” because there has been a lack of research to identify evidence-based programs,

- Changing new §(e)(2)(a)(i) so that reimbursement is provided for services provided to children/youth before they are already in the “system” (not just for those children who have “case plans,” are in “judicial proceedings,” or are in foster care),
- Clarifying §(e)(2)(C) that mandates that reimbursements “shall not duplicate other Federal funding sources for such services (including those under titles V, XIX, and subtitle A of XX) and shall only be made to the extent that payment for such services cannot reasonably be expected to be made under another federally funded program,” so that Titles IVB and XX do not need to be fully dedicated to family services before Title IVE reimbursement can be provided (especially as the Promoting Safe and Stable Families minimum service spending requirement is eliminated in §4 (see below)),
- Adding in new §(e)(2)(E) Maintenance of Effort a section that “provides that the State will furnish reports to the Secretary, at such times, in such format, and containing such information as the Secretary may require, that demonstrate the State’s compliance with the prohibition,” as in Social Security Act 432(a)(7)(B),
- Clarifying new §(e)(2)(E) assurance for fiscal year 2015, since the effective date of the Act is October 1, 2015, the beginning of FY16,
- Ensuring that new §(e)(3) outcomes-based reimbursement rates incentivize child safety, permanency and wellbeing as the proposed structure could encourage states to increase preservation/reunification placements without due regard for safety and dedicate inadequate funds in order to meet national benchmarks of lower spending. Moreover, these measures may not necessarily reflect factors within the state’s control (e.g., availability and willingness of relatives and kin to care for children), and thus their performance or program cost-effectiveness. DAI suggests that states be evaluated based on reasonable and timely efforts at preservation/reunification, as well as safety, permanency and wellbeing. Any comparison measures should consider state past years’ rates and efforts, as well as national medians, and any reduction in reimbursement should be reinvested in family supports and services. The reward structure could also be used to incentivize states to prohibit requiring parents to relinquish custody in order to access residential treatment services for their children.

Subsection (c) Payment Under Title IVE, amending SSA §474 Payments to States

DAI recommends eliminating “as found necessary by the Secretary” from the provision reimbursing states with percentage payments “of the total amount expended during such quarter as found necessary by the Secretary for the provision of time-limited family services.” This discretionary language is not included in foster care, adoption assistance or kinship assistance payments for which states “shall be entitled to a payment,” though it is for training. If the provision is intended to refer to the benchmark-based reimbursement, the language should be clarified. If the language is included because there is limited funding to serve the entire eligible population, the reimbursement standard should be based on a defined methodology.

Subsection (d) Technical Assistance, Data Collection and Evaluation, amending SSA §476
Technical Assistance; Data Collection and Evaluation

DAI recommends:

- Specifying data collection from states in new §(d)(2) and adding service and program model information to be collected under new §(e)(2)(D) (reporting of services, expenditures, status) in order to assess service/program effectiveness in achieving outcomes, and
- Requiring annual, not “periodic,” reports to Congress in new §(d)(3) and including new §(d)(2) and new §(e)(2)(D) data outcome and evaluation information, evidenced-based programs and promising practice models from states, since these reports are to be publicly available under new §(d)(3)(B).

Section 4 Assuring Funding Under Part B of Title IV of the Social Security Act for Prevention and Post-Permanency Support (Subpart 2, Promoting Safe and Stable Families)

Subsection (a) Elimination of Time-Limit for Family Reunification Services, amending SSA §431
Definitions

DAI recommends:

- Clarifying whether eliminating the 15-month time limit in the definition of family reunification services conflicts with timely permanency efforts and because the existing provision applies to children in care, whether there currently is a 15-month family reunification limit to conform with Adoption and Safe Families Act requirements, and
- Adding a provision to Social Security Act §432(a)(2) to require states to include in their plan updates service evaluations (family support, preservation, reunification services and adoption promotion and support) and services’ effects on achieving outcomes.

Subsection (b) Mandatory Funding for Promoting Safe and Stable Families (PSSF) and Related Programs and Activities, amending SSA §436 Authorization of Appropriations

- DAI strongly supports converting the Promoting Safe and Stable Families program to mandatory funding and increasing appropriations to \$1 billion in FY16. Because PSSF funds four distinct and critical child welfare services that prevent or reduce the length of time children and youth spend in foster care, it also could result in reduced Title IVE foster care payment costs.

Subsection (c) Elimination of PSSF Minimum Service Categories Spending Requirement and Inclusion of Evidence-Based Spending Requirement for Family Preservation and Support Services, amending SSA §432 State Plan Requirements

DAI recommends:

- Reconsidering the elimination of “significant portions of such expenditures for each such program” which could potentially mean states will spend less on some service categories, especially because new §(e)(2)(C) (above) mandates that reimbursements “shall not duplicate other Federal funding sources for such services ... and shall only be made to the

extent that payment for such services cannot reasonably be expected to be made under another federally funded program,”

- Clarifying the spending requirements so states do not fund one service area evidence-based program to the exclusion of other program areas,
- Strengthening adoption promotion and support, which already funds two distinct services in one category. It is critical to increase adoption support because post-adoptive families present different needs than biological families -- in addition to trauma of past abuse and neglect, there are issues of grief, abandonment, attachment and identity. Moreover, studies on child welfare adoptive families indicate that providing services early in the placement is linked to more positive outcomesⁱⁱⁱ and evaluations of post-adoption services conclude that being able to receive services for as long as they are needed, rather than for a time-limited period, is linked with more positive outcomes,^{iv}
- Incentivizing states to prohibit requiring parents to relinquish custody in order to access residential treatment services for their children,
- Changing to 25 percent from 50 percent spending on “evidence-based programs” and to 50 percent from 25 percent on “evidence-based programs”/“promising program models” because currently there is a lack of research identifying evidence-based programs, and
- Clarifying the inconsistency of §4(c) heading for state spending requirements applying only to family preservation and support services, while the Social Security Act §432(a)(4) it amends is not limited to those two services.

Thank you for the opportunity to submit comments on the proposed legislation. Please feel free to contact us with any questions or for additional information.

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ⁱ Berger, L. & Font, S. (2015). The Role of the Family and Family-Centered Programs and Policies. *Future of Children* (25) (1), available at: http://www.princeton.edu/futureofchildren/publications/docs/25_1_chapter7.pdf

ⁱⁱ Casey Family Programs. (2015). Prioritizing Early Childhood to Safely Reduce the Need for Foster Care: A National Scan of Interventions, available at: <http://www.casey.org/media/prioritizing-early-childhood.pdf>

ⁱⁱⁱ Houston, D. M., & Kramer, L. (2008). Meeting the Long-Term Needs of Families Who Adopt Children out of Foster Care: A Three-Year Follow-Up Study. *Child Welfare*, 87(4), 145-170

^{iv} Atkinson, A., & Gonet, P. (2007). Strengthening adoption practice, listening to adoptive families. *Child Welfare*, 86 (2), 87-104; Gibbs, D., Siebenaler, K., & Barth, R. P. (2002). Assessing the field of post-adoption services: Family needs, program models, and evaluation issues. Summary report. U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, available at: <http://aspe.hhs.gov/hsp/post-adoption01/summary/report.pdf>