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STATE OF VERMONT
GENERAL ASSEMBLY
JOINT LEGISLATIVE CHILD PROTECTION
OVERSIGHT COMMITTEE

October 31, 2019

Hon. Patrick Leahy
United States Senate
437 Russell Senate Building
Washington, DC 20510

Hon. Bernard Sanders
United States Senate
332 Dirksen Building
Washington, D.C. 20510

Hon. Peter Welch
House of Representatives
United States Congress
2303 Rayburn House Office Building
Washington, DC 20515

Dear Representative Welch and Senators Leahy and Sanders:

The Family First and Prevention Service Act of 2018 (FFPSA or Act) signed into law on February 9, 2018, as part of the Bipartisan Budget Act of 2018, Pub. L. 115-123, provides a welcome opportunity for states to invest in prevention services for families prior to a child's entry into foster care. As a condition of the new funding flexibility, the Act requires enhanced oversight of foster children placed in residential treatment settings.

All states must comply with this law by October 2021, with the option to implement as early as October 2019. Vermont has chosen to delay implementation until October 2021. This time is necessary to effectively address implementation barriers; some general to all states and some unique to Vermont.

We agree that the goal of expanding and providing prevention services to families at risk of their child coming into state custody is imperative. We agree that children should reside within family-like settings. We agree that children should only receive residential care for the time necessary for their treatment needs. However, federal legislation is often broad and is not, by nature, sensitized to the real circumstances of individual states. On behalf of Vermont, we, the Joint Legislative Child Protection Oversight Committee, respectfully request your attention to the concerns outlined in this letter.

Vermont is a small and mostly rural state. We have worked diligently to create a robust network of supportive services, both governmental and private, to foster the interests of our families and children. The cost of compliance with the new residential care standards will have a deleterious effect on our in-state residential care system. Vermont's system is comprised primarily of small programs that treat children and youth within small group-home settings. We are not a state of large institutional congregate care. Program compliance with the Act favors larger programs as they have administrative and financial scale to absorb the costs. Likewise, we fear that the higher burden of cost to our smaller programs will create unsustainable overall costs for our system. This could threaten the availability of necessary treatment for our children and youth, or at least make us more reliant on the out-of-state placement of youth.

Additionally, restrictions placed on access to the prevention dollars suppress our ability to create and spread new prevention opportunities to our families. Costs associated with demanding program evaluation or the necessity to purchase proprietary program models can overburden our community of small nonprofit organizations. Likewise, the number of federally approved evidence-based program models should be expanded. While we agree that a dollar spent poorly is not in anyone's interest, zero investment due to insurmountable restrictions is an equally poor outcome. To this end, we propose the following:

- It is our understanding that the current list of federally approved (Children's Bureau) and evidence-based programs is minimal. (See <https://preventionservices.abtsites.com/>). Robust lists such as the California Evidence-Based Program Clearinghouse could serve as a proxy. (See <https://www.cebc4cw.org/>)
- Allow Title IVE to expand and enhance existing prevention efforts or those that could be considered allowable under Vermont's 1115 Medicaid waiver. Because of Vermont's waiver, we have been using Medicaid to fund prevention programs for many years. This previous innovation may inhibit future ability to fund prevention services through Title IVE due to the requirement that Title IVE be the "funder of last resort."
- Passage of the Family First Transition and Support Act of 2019, which would open the door to a wider array of evidence-based program opportunities, provides states with transition funding and increases funding for program evaluation. (See <http://www.ncsl.org/research/human-services/family-first-prevention-services-act-ffpsa.aspx>)
- Allow for a more robust waiver process for the implementation of Qualified Residential Treatment Program (QRTP) standards. Vermont is particularly challenged by the expectation of judicial approval of the placement of youth in residential care. These decisions are best made in a timely matter and by a youth's caretaker and treatment team. Court review is still available through the normal schedule of hearings.
- We support the safety implied by enhanced background checks for residential treatment program staff. We suggest that federal agencies (such as USHHS Children's Bureau and Federal Bureau of Investigation) collaborate to ensure states can effectively and efficiently meet these requirements.

Thank you for your attention to our concerns. If the opportunity arises, a conversation between yourselves, our Committee, and the Department for Children and Families may prove beneficial.

Sincerely,

Representative Ann Pugh, Chair

Senator Ginny Lyons, Vice-Chair