

# VT Office of the Child, Youth, and Family Advocate

**Advisory Council on Child Poverty and Strengthening Families**

**November 26, 2024**

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**Office of the Child, Youth, and Family Advocate**



# What is the OCYFA?

- We are an independent state office that engages in individual and systemic advocacy on behalf of children, youth, and families served by DCF, with an emphasis on child welfare and juvenile justice.
- We have the ability and authority to see systems as a whole and as individual components, with the aim of family centered systemic reform that also benefits government and communities.

# Big Ideas for Today

- Supporting families and children in their communities is the right thing to do. It is a core function of government.
- It is also cheaper for government and taxpayers.
- And, it is achievable.

# How Are Poverty and Child Welfare Connected?

- “The stress of being unable to meet the basic physiological needs of food and shelter, often due to poverty, impacts the ability of parents and caregivers to create an environment where children can grow and learn”
  - – Building Bright Futures, The State of Vermont’s Children 2022

## Another Perspective

“There is a fine line between parental neglect of children and societal neglect of families.”

— Teresa Rafael, executive director, Children’s Trust Fund Alliance

# The Cost of Child Protection

- Nationwide, 85% of families investigated by child protective services have incomes below 200% of the federal poverty line.
- Vermont has the highest per capita number of calls to its child protection hotline (Child Trends):
  - Rate of referrals per 1,000 children nationally, avg: 49.1.
  - Rate of referrals per 1,000 children in Vermont: 160.6.
  - Fewer than 3% of calls to the hotline result in a substantiation.

# Child Welfare Involvement Is Not a Moral Failing

## Material Hardship Increases Risk for Child Welfare Involvement: **Both Neglect & Abuse**

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If low-income families experience at least one material hardship

- ~3x higher likelihood of neglect investigation
- ~4x higher likelihood physical abuse investigation

If low-income families experience multiple types of material hardship  
*(after experiencing no hardships)*

- ~4x higher likelihood of CPS investigation
- ~7x higher likelihood physical abuse investigation

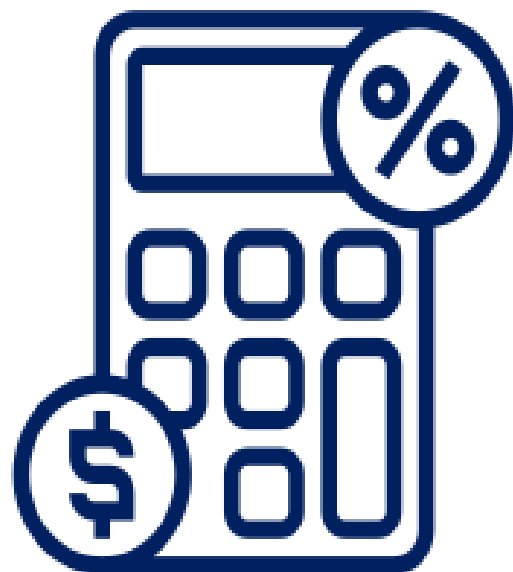
(Yang, 2015)



*\*Dimensions of material hardship in this study included: food, housing, utilities & medical hardship*

# Earned Income Tax Credit (EITC) & Child Tax Credit (CTC)

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- EITC and CTC payments are associated with **immediate reductions** in state-level child maltreatment reports
- Each additional \$1,000 in per-child EITC and CTC refunds is associated with a decline in state-level child maltreatment reports of:
  - 2.3% in the week of payment
  - 7.7% in the 4 weeks after payment





# Concrete and Economic Supports Are Racial Justice Issues

- In 2021, Black children represented 20% of those entering foster care nationally, but only 14% of the total child population. (AECF).
- American Indian and Alaska Native children made up 2% of those entering foster care nationally and 1% of the child population. (AECF).
- DCF removes Black and multiracial children at rates 120% more than their presence in Vermont's population would suggest. (OCYFA 2023).
- Between 2010 and 2020, 99.7% of the population growth in Vermont's most populous county has been among people who are Black, Hispanic, Asian, American Indian, and/or Native Hawaiian. (U.S. Census).

# Concrete and Economic Supports Are Racial Justice Issues

- Among children, Vermont had the second largest rate of population growth of children of color of any state in the nation, according to census figures. (2023 OCYFA Annual Report).
- Nationally and in Vermont, the more non-white and low-income children there are on a protective services worker's caseload, the higher the state's foster care entry rate. (UVM Drivers of Custody Report, 2021).

# Kin Connections

- Approximately 40% of children and youth in foster care are in licensed kinship foster homes, according to DCF data.
- Another 400+ youth living with kin are not officially in state custody, but rather under "CCOs" – Conditional Custody Orders. This is when a court "pauses" state custody for a child and temporarily returns the child to a family or community setting. Because the child is not officially in care, the child's caregivers no longer receive financial support for caring for the child.
- An additional 5000-7000 children and youth in VT are being raised by kin. Some percentage of these children are on "safety plans" with no financial support. DCF does not keep data on these "safety plans."

# ‘Do We Have the Money,’ or ‘How Are We Already Spending the Money?’

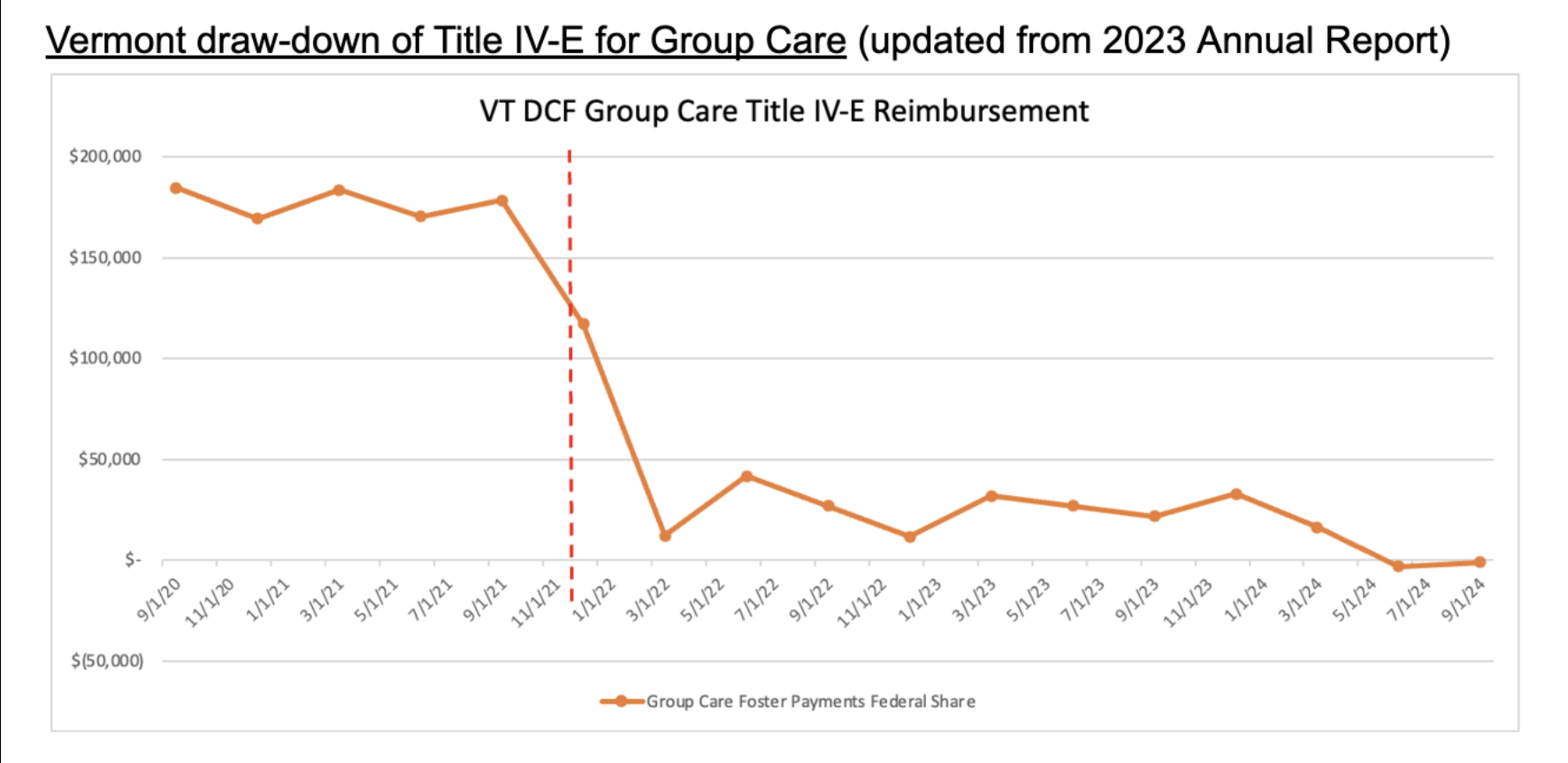
- “Money per child spent on foster care appears negatively associated with reunification, money spent on preventative services or cash assistance is associated with positive child welfare outcomes.”

- 2021 UVM Drivers of Custody Report

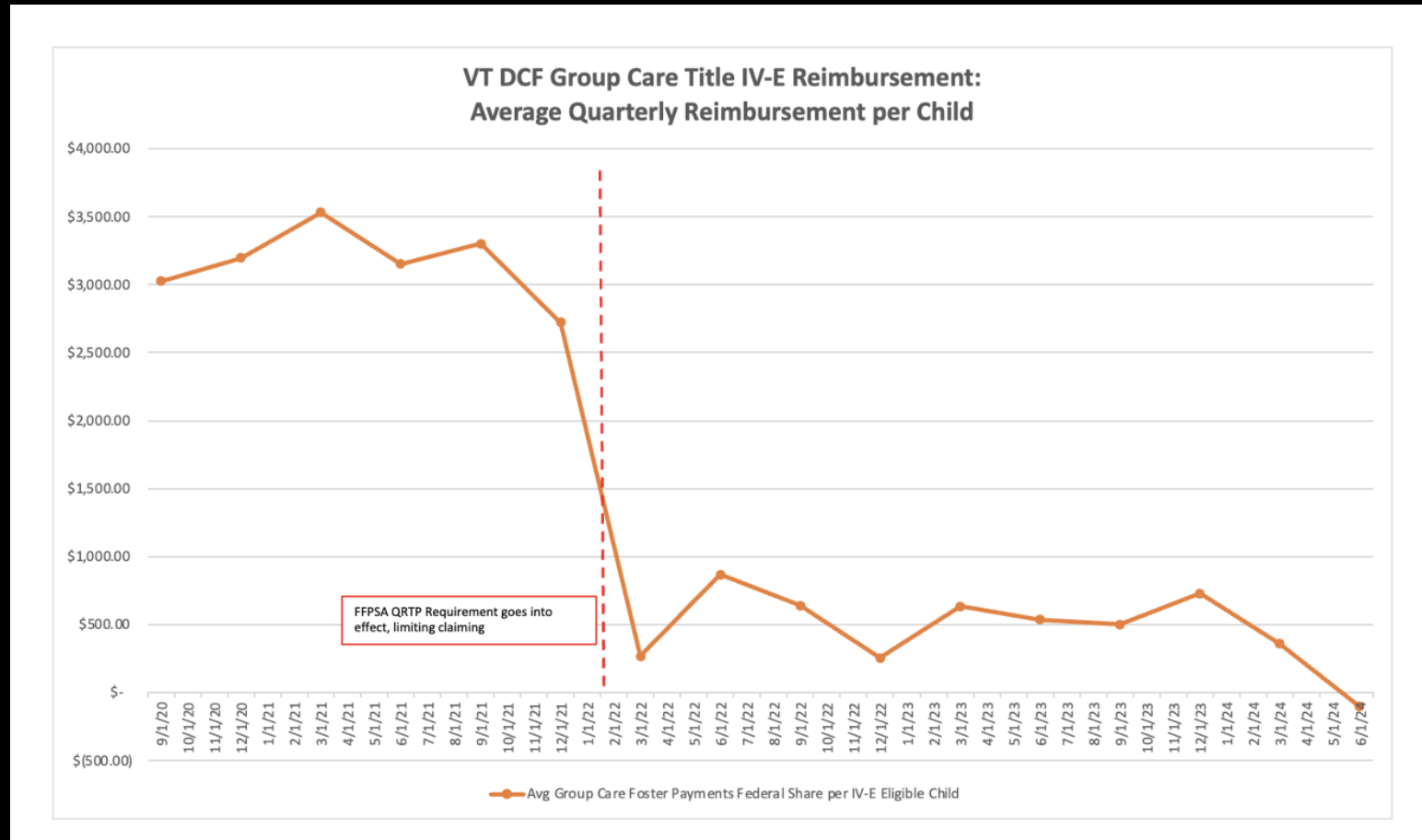
# Vermont Invests Heavily in The Deepest End of the System

- How much has Vermont spent over the last three years on segregated settings, according to DCF's estimate?
- Over \$2.5 million
- And that spending is increasing:
- From July 2022 through the end of January 2024, DCF spent an estimated \$1.08 million on segregated settings. 19 months, ~\$57k per month.
- From January 2024 through October 2024, 10 months, ~\$147k per month.

# With Changes in Federal Law, Deep End Investments Become Even More Expensive



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# Deep End Investments Rely on State General Fund Dollars

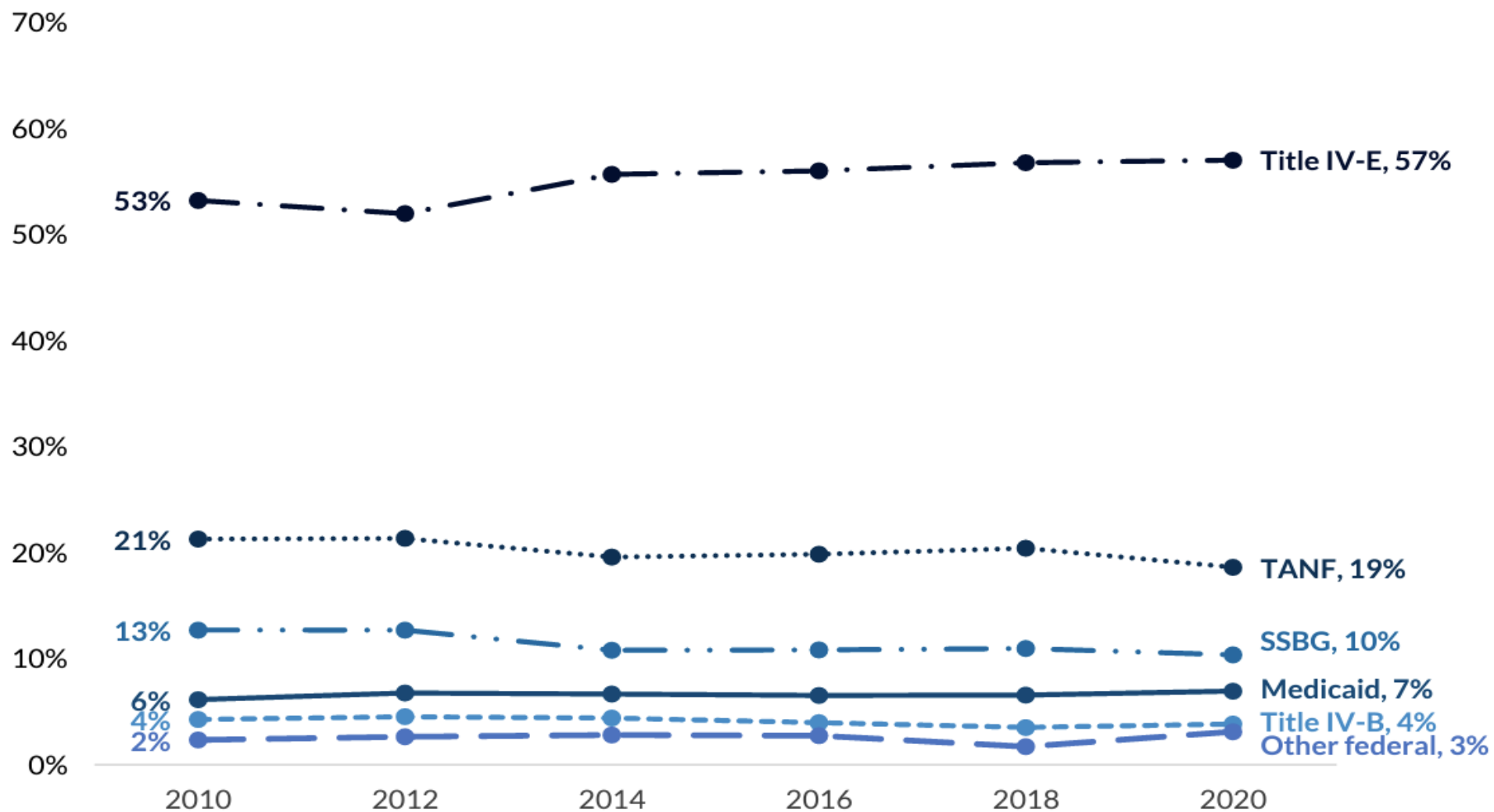
- Residential Care: OCYFA working on estimate of total cost per year. Likely \$10 M+
- Detention: Estimated \$50M+ over next decades to build a 22-bed facility similar to Woodside.
- RFP for new DCF data system is concerning. Huge contract, no requirement that software actually be built. No provisions for reports of restraint/seclusion to OCYFA. Insufficient family and worker voice.
- Title IV-E funds will not be available to support the proposed Green Mountain Youth Campus under the current plan.
- Medicaid funds will not be available to support the proposed Green Mountain Youth Campus under the current plan.



So...What Can Vermont Do Now?

Main Sources of Child Welfare Funding Nationally (Child Trends)

**Figure 6.** Proportion of total federal expenditures from each major federal source, SFYs 2010–2020 (38 states with sufficient data)



**Note:** Based on an analysis of 38 states with sufficient data across all six surveys conducted between 2010 and 2020 (surveys conducted every two years). Percentages may not total 100 percent due to rounding. The percentages provided in this figure for SFY 2020 may vary from the percentages provided in the text above. See the text box in the “total child welfare agency spending” section for more information.

# So...What Can Vermont Do Now?

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- Expedite new kin licensing rules for foster homes.

## DOCUMENT HEADINGS

Department of Health and Human Services  
Administration for Children and Families  
45 CFR Part 1355 and 1356  
RIN 0970-AC91

### AGENCY:

Children's Bureau (CB); Administration on Children, Youth and Families (ACYF); Administration for Children and Families (ACF); Department of Health and Human Services (HHS).

### ACTION:

Final rule.

### SUMMARY:

This rule finalizes revisions to the definition of "foster family home" proposed on February 14, 2023 (here after referred to as the February 2023 NPRM). Title IV-E agencies may choose to claim title IV-E federal financial participation (FFP) for the cost of foster care maintenance payments (FCMP) on behalf of an otherwise eligible child who is placed in a relative or kinship licensed or approved foster family home when the agency uses different licensing or approval standards for relative or kinship foster family homes and non-relative/non-kinship foster family homes. In addition, the final rule requires title IV-E agencies to periodically review the amount of FCMPs to also ensure that the agency provides a licensed or approved relative or kinship foster family home the same amount of FCMP that would have been made if the child was placed in a non-related/non-kinship foster family home.

### DATES:

This rule is effective on November 27, 2023.

# So...What Can Vermont Do Now?

40400

Federal Register / Vol. 89, No. 92 / Friday, May 10, 2024 / Rules and Regulations

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

45 CFR Part 1356

RIN 0970-AC89

### Foster Care Legal Representation

**AGENCY:** Children's Bureau (CB), Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

**ACTION:** Final rule.

IV. Section-by-Section Responses to Comments

V. Regulatory Process Matters

VI. Tribal Consultation Statement

### I. Statutory Authority

Section 474(a)(3) of the Social Security Act (the Act) authorizes Federal reimbursement for title IV-E foster care program administrative costs, which are defined as costs "found necessary by the Secretary for the provision of child placement services and for the proper and efficient administration of the State [title IV-E] plan." This authorization applies to an Indian tribe, tribal organization, or tribal consortium that has an approved title IV-E plan, in the same manner as it

care.<sup>4</sup> For families with children that have been placed in foster care, independent legal representation can expedite reunification and improve permanency or help provide access to needed supports for youth transitioning out of the child welfare system.<sup>5</sup>

HHS regulations at 45 CFR 1356.60(c) detail cost-sharing requirements for the Federal and non-Federal share of title IV-E foster care program expenditures for the cost of administrative activities. A title IV-E agency may claim FFP at the rate of 50 percent for allowable title IV-E foster care administrative costs. A title IV-E agency may also claim FFP for allowable administrative costs incurred by any other public agency or tribe which has an agreement in effect under

# New Title IV-E Rule

## II. Background

Many families that come to the attention of a child welfare agency are in the midst of or recovering from familial, health, housing, or economic challenges or crises. These obstacles can impede a family's ability to provide a safe and stable environment for their children.<sup>1</sup> Addressing these obstacles to restore a family's stability and safety and prevent a child from being removed from their home is critical to a child's well-being. This is because removal, even for a short period of time, exposes the child to a range of trauma and stress.<sup>2</sup> A child who is at risk of entering foster care has better outcomes when they remain safely at home compared to when they are placed into foster care.<sup>3</sup> Access to independent legal representation can help stabilize families, improve safety, and reduce the need for more formal child welfare system involvement, including foster

care.<sup>4</sup> For families with children that have been placed in foster care, independent legal representation can expedite reunification and improve permanency or help provide access to needed supports for youth transitioning out of the child welfare system.<sup>5</sup>

# “Legal Services” = Multidisciplinary Representation

- Title IV-E funds can be used for:
  - Legal representation in child welfare proceedings for children, parents, relative caregivers, tribes, Indian custodians, and the child welfare agency.
  - Legal representation in civil matters that assist individuals with meeting goals in the case plan.
  - Legal representation to avoid system involvement in cases where the child is a candidate for foster care.
  - Multidisciplinary models
  - Training and certification

# How Much Money Would This Potentially Save?

Year	2021	2024	2025
1. National number of children receiving legal representation in foster care legal proceedings (candidates and IV-E FC)	10,447 (candidates) 26,092 (IV-E FC)	13,201 (candidates) 32,876 (IV-E FC)	15,973 (candidates) 39,779 (IV-E FC)
2. National average FFP claim per child (candidates and IV-E for foster care legal proceedings)	\$742 (candidates) \$2,709 (IV-E FC)	\$777 (candidates) <b>\$2,837</b> (IV-E FC)	\$795 (candidates) \$2,902 (IV-E FC)

**\$2,837 x 900 children in care x 80% participation rate = Over \$2 Million**

# But Don't We Need a New Data System to Do This?

- Short answer: no.
- But it should make us think twice about the way we are planning to implement this new data system.
- Our recommendation is to implement our new system slowly, focusing on essential issues such as title IV-E eligibility and restraint and seclusion reporting.



# Return to Big Ideas for Today

- Supporting families and children in their communities is the right thing to do. It is a core function of government.
- It is also cheaper for government and taxpayers.
- And, it is achievable.
- It is too expensive *not to* ~~to~~ address poverty factors related to child welfare.
- It is not a moral failing by DCF that our system is atrophying.

# Thank you!

- Questions?
- Please don't hesitate to reach out:
  - [childadvocate.vermont.gov](http://childadvocate.vermont.gov)
  - [Matthew.Bernstein@vermont.gov](mailto:Matthew.Bernstein@vermont.gov)
  - [Lauren.Higbee@vermont.gov](mailto:Lauren.Higbee@vermont.gov)
- Referral information for the public:
  - 802-828-2828 (leave a message)
  - [OCYFA@vermont.gov](mailto:OCYFA@vermont.gov) (shared mailbox)
  - Text to 802-312-1010

# Sources

- [OCYFA 2023 Annual Report](#)
- [Chapin Hall Master Economic Supports Deck](#)
- [UVM Drivers of Custody Report, 2021](#)
- [AECE](#)
- [Child Trends](#)