CWDA
Advancing Human Services
for the Welfare of *All* Californians

925 L Street, Suite 350
Sacramento, CA 95814
p: 916.443.1749 | f: 916.443.3202
cwda.org

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The Honorable Orrin Hatch, Chairman
The Honorable Ron Wyden, Ranking Member
Senate Finance Committee
219 Dirksen Senate Office Building
Washington, DC 20510

Dear Senators Hatch and Wyden,

The County Welfare Directors Association of California (CWDA) thanks you for working to craft a draft bill to keep vulnerable children safe and with family or other relative caregivers. CWDA commented earlier on the Family Stability and Kinship Care Act of 2015 (S. 1964) and is pleased to see that some of our recommendations were incorporated into the draft Family First Act. California's counties have a tremendous financial and policy stake in this area, given that they rely on Title IV-E funds to support the majority of the children in the foster care system. Moreover, California's counties finance the entire non-federal share of the foster care program with local funds. Consequently, our counties will only be able to support a bill that maintains the existing federal funding entitlement to child welfare/foster care programs that we rely upon to serve abused, neglected and at-risk populations.

Overall, CWDA supports the bill's approach and many of its provisions. We support the proposed federal financial match for prevention and post-permanency efforts. We also support the changes proposed to reduce the use of group homes, including changing such placements to short term treatments based on an assessment of a child, and teaming approaches to inform the assessment process. Those congregate care requirements are very similar to what our state recently enacted into law and that the state and our counties are currently working to implement beginning January 1, 2017.

That said, CWDA has some questions and feedback on the draft. They are below.

Prevention and Family Services and Programs Under Title IV-E

CWDA supports eliminating the eligibility requirement based on income for prevention services to children with parents and parenting/pregnant foster children. However, linking eligibility for federally- financed services to children at "imminent risk" of entering or re-entering foster care may miss an important opportunity for counties to prevent abuse and neglect for children who may not meet the "imminent risk" criteria yet still could benefit from supports and services before a family's situation deteriorates. States such as California have made strides in reducing entry into foster care through the use of programs such as Differential Response or

Alternative Response, which reaches children and families before they are at imminent risk. We recommend including these populations in the bill, at state option.

CWDA also supports the provision to make available short-term financial assistance to relatives and kinship navigator services. The proposal phases in these kin supports based on a child's age over time, starting Oct 1, 2017. We propose a technical amendment that if the family has a sibling set, to base eligibility on the oldest child's age and apply that eligibility for all children in that home, so that the family receives adequate support for maintaining siblings together, and states and counties are not burdened financially.

With respect to linking and limiting the IV-E match over time to only evidence-based programs that meet a high standard, we caution the Committee that child welfare services does not yet have a robust evidence-based set of programs. While the number of such practices and programs is growing, the development of a robust array of evidence-based services that are well-supported will likely take more time than the bill's phase-in timeline of support for increasingly higher standards. Counties do not want to limit children and families' access to emerging and promising practices. It will also take time to increase the limited number of evidence-based providers. Such programs often require a high degree of training and specialized providers. Finally, limiting Title IV-E funding only to evidence-based programs that meet a high standard may prevent agencies from providing innovative services or programs that may be effective but have not been subject to rigorous study. For all of these reasons, we urge the language to provide greater flexibility and a longer timeline to phase in the evidence-based requirements, perhaps tying the timeline to the broader availability of research-based approaches.

We are aware that the proposal would allow states to opt into providing such prevention programs. As a county-administered state, we would ask that such an opt-in also be provided at the county level. California's 58 counties have varying resources and access to providers; some participate in waivers and some do not. It is not clear whether the draft measure would allow individual counties to opt-in to participate in these prevention services as their capacity allows. Furthermore, given that nine of California's counties are participating in child welfare financing waivers, it is unclear how these proposed provisions intersect with initiatives within those counties.

CWDA also would support a change in the bill to allow the time-limited federal reimbursement for services to begin when the service is available rather than when the youth has been identified as eligible for such services. Some counties may not have the array of providers who are able to serve the child immediately, due to waiting lists and other capacity issues. Children and families should not be penalized for local capacity issues, and are more likely to achieve better outcomes with the full 12 months of support. While not proposed in the bill at this time, we also strongly support elimination of the income-eligibility requirement that is tied to the 1996 AFDC income standard for all children in foster care, as all abused and neglected

children should be equally entitled to services and protections under the Title IV-E program.

Ensuring the Necessity of a Placement that is not a Family Foster Home

This section is similar to efforts that the state and counties are beginning to implement as result of a state law enacted in 2015. Our members recognize the policy intent of the state law and federal proposal and are also very much aware of the challenges of implementing it timely and fully. While California's counties are building a model to move youth out of group homes and into home-based settings, our experience is that some youth require care in a very intensive congregate care setting, including probation youth who may need supervision for a variety of reasons. The state's new law requires that these cases, too, be very carefully monitored and short term.

CWDA has concerns, however, with some of the placement provisions in the *Family First* draft. We oppose the onerous provision prohibiting public agencies such as counties and non-profit providers from completing assessments on appropriate placements into a Qualified Residential Treatment Program (QRTP). It appears the bill's intent is to prevent the possibility of a conflict of interest, which we would support. We contend, however, that the proposal already includes sufficient safeguards to ensure the child is not placed inappropriately into a QRTP. Among the safeguards, the bill requires the assessment process to include a team, and court oversight and reporting. Additionally, state and county agencies already have an incentive for lower-level placements, given the high cost of congregate care placements. We urge that state and or county agency staff who are trained in applying the assessment tool be among the individuals allowed to conduct such assessments.

With respect to the team of individuals involved to develop the child/youth assessment, the draft bill seems to be mandatorily inclusive of 'relatives, fictive kin, professionals, teachers, clergy, etc.' Research and practice have shown that teams should be driven by the youth and family, and while many of these team members should participate (particularly child welfare services, probation, mental health, etc.), there are others that should be determined in large measure by the child/youth and family including relatives. The team membership should be permissive, not mandatory, upon clergy and teachers in particular.

We have concerns with the requirement that the agencies report to the court within 60 days of placement into a QRTC. An assessment by a qualified licensed professional, team planning for services and supports, and preparation of the court report are all time intensive activities that can take more than 60 days. CWDA believes that a qualified licensed professional should focus on treatment planning and reporting back to the court, and that the treatment plan, in addition to the court report, should be provided to the court for review and approval, and that the timeline should be extended to 90 days. Developing an appropriate treatment plan should be

the primary focus. Without one, children may stay longer than necessary in congregate care settings.

Upon transitioning to family or kin-based care, CWDA supports requiring the QRTP to provide six months of after-care, but we also believe that those supports should be eligible for IV-E funding, as funding is the biggest barrier to the provision of such services. Currently, under the IV-E program, county agencies cannot pay for two placements and related services concurrently.

Maintenance of Effort, Waivers and Related Provisions

CWDA understands the bill's intent that states and counties maintain their current financial investments providing child welfare services and that these new federal investments not supplant those efforts. We do, however, have questions and concerns about how exactly the federal government will determine the maintenance of effort (MOE). Given state flexibility in using federal program funding under the Temporary Assistance for Needy Families program (TANF), the Social Services Block Grant (SSBG) or Title IV-B, the FY 2014 date in the draft or any other single year may not accurately determine those investments, especially if the federal government's definition of what qualifies as 'prevention' is applied retroactively to a previous year. Furthermore, waiver counties in FY 2014 spent a significant share of IV-E funds on prevention and the state could be at risk of being penalized if the MOE calculation does not account for their unique efforts. We recommend the federal bill provide some parameters to the types of programs that would be counted towards the MOE, and that these parameters should be consistent with the provisions to be funded in this bill (e.g. voluntary family maintenance services, differential response, kinship navigator and kinship support services, etc.).

In addition, the draft bill suggests that IV-E waiver authority will not be extended beyond the current September 30, 2019 sunset date. CWDA supports our waiver counties who contend that waiver authority should always be available to test new service innovations. Waivers have enabled states to implement child welfare reforms that are cost neutral to not only the federal government, but also to participating waiver states and counties. In fact, many best practices in child welfare were first tested and evaluated through IV-E waivers, Most notably, many existing IV-E waivers, including California's, expand family services, such as those that would be funded under the bill to reduce the use of foster care, protect children, and strengthen their families by reinvesting savings from reducing costly foster care placements. Extending IV-E waiver authority would enable states to implement and test alternative approaches in a cost neutral manner rather than through a single "one size-fits all" approach.

Additionally, we have concerns with the October 1, 2019 implementation of the congregate care provisions and believe states should have an ability to request extensions for good cause. States will need time to build adequate capacity in their family-based care networks, and all states currently struggle with recruiting and

retaining an adequate supply of foster family caregivers. In addition, time will be needed to build capacity, and revise licensing standards, for QRTCs in order to meet the bill's mandates. Although California will begin implementation of our congregate care reform effort in January 1, 2017, we recognize that a change of this magnitude will take time and significant resources. This is particularly true for congregate care settings serving probation youth, as group homes are often the alternative to higher level placements such as camps and juvenile halls.

Private Right of Action

The draft bill allows that after specified months of placement (based on the child's age) in a congregate care setting, the family would be notified of a private right of action to obtain services for the least restrictive environment. CWDA is not clear on the intent or new applicability of this provision. Requiring a notice on the private right of action for failure to place a child in the least restrictive environment is problematic because it is not clear, based on existing case law, that the "least restrictive" standard is specific enough to actually create a private right of action.

Use of IV-B Promoting Safe and Stable Families Funding (PSSF)

CWDA supports the change in the definition of family reunification under PSSF to allow for family reunification services for up to 15 months after a child is reunified. We note, however, that there is no new funding associated with this change, and encourage a federal investment supporting this change.

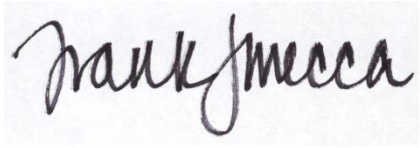
Age Appropriate Visitation for Out of State Youth

Finally, CWDA once again urges the Committee to consider a provision allowing for the "skyping" with older (over 18) foster youth in the extended foster care program when the youth is attending college or living in another state, when deemed appropriate and there are no safety issues. California is one of several states that have opted to extend foster care to age 21 under the provisions of the Fostering Connections Act. Our county human services agencies are working to comply with the provision in the Promoting Safe and Stable Families Reauthorization of 2011 (P.L. 112-34) requiring 95 percent of their foster care children receive monthly in-person visits. The provision, however, does not make any exception for youth placed out of state, even for older youth in extended foster care. Given that not all states have implemented an extended foster care program, California's counties cannot establish reciprocal agreements with other states to visit older youth in care as is done with children under 18 years of age. It has been our experience that a number of our extended care youth do indeed go out of state to attend colleges or connect with relatives. Those arrangements are generally considered safe and, due to their older age, the youth are less vulnerable to being harmed as an adult in those living situations.

As an alternative to a monthly, in-person visit for those youth, CWDA recommends that there be a provision for "age appropriate visitation" through computer technology such as skyping to occur on a monthly basis, with in-person visitation once every six months. For those states such as California which has implemented an extension to age 21, the provision would enable county social workers to "skype" most monthly visits with the foster youth, given the significant expense of traveling to meet these youth and the time this takes away from serving other youth on their caseload.

Thank you for considering our comments. If you have any questions, please contact Tom Joseph, Director of CWDA's Washington, DC office at 202.898.1446 or tj@wafed.com.

Sincerely,



Frank J. Mecca
Executive Director