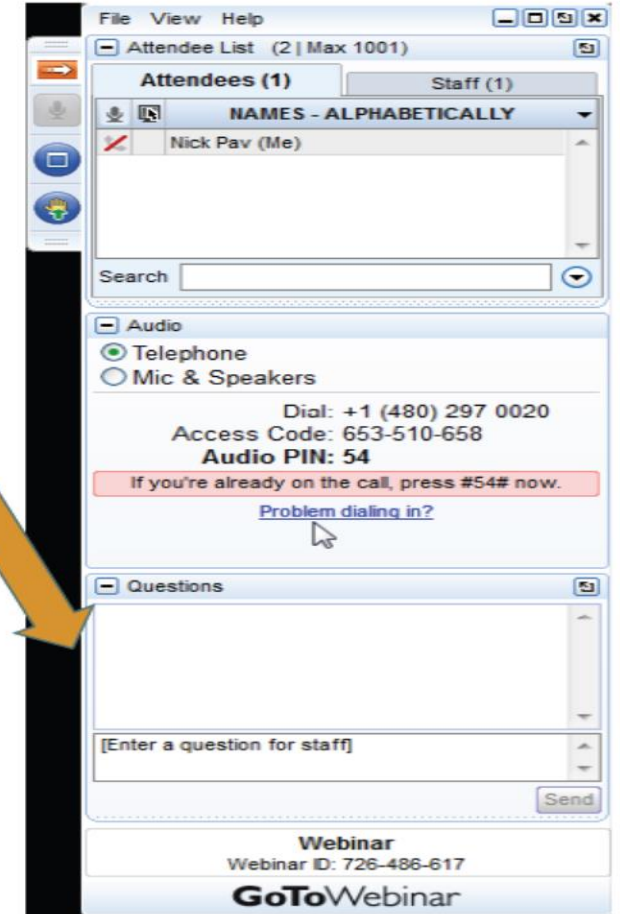




# **Implications of Passage of Families First Prevention Services Act**

# Logistics

- Webinars will be recorded and archived at <http://kids-alliance.org/webinars/>
- All attendees will be on mute – if you experience technical difficulties email Shanti Ezrine at [s.ezrine@kids-alliance.org](mailto:s.ezrine@kids-alliance.org)
- A certificate of participation will be posted online after the webinar at <http://kids-alliance.org/webinars/>
- We will be answering your questions – please submit questions using the “Questions” function on your GotoWebinar dashboard



# Today's Speakers

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- **Sean Hughes**

Manager Government Affairs  
Social Change Partners, LLC



- **Brian Blalock**

Director, Law + Policy  
Tipping Point Community



- **Angie Schwartz**

Policy Program Director  
Alliance for Children's Rights

- **Cathy Senderling**

Deputy Director  
County Welfare Directors Association of California



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

# Understanding Maltreatment, Prevention and Foster Care

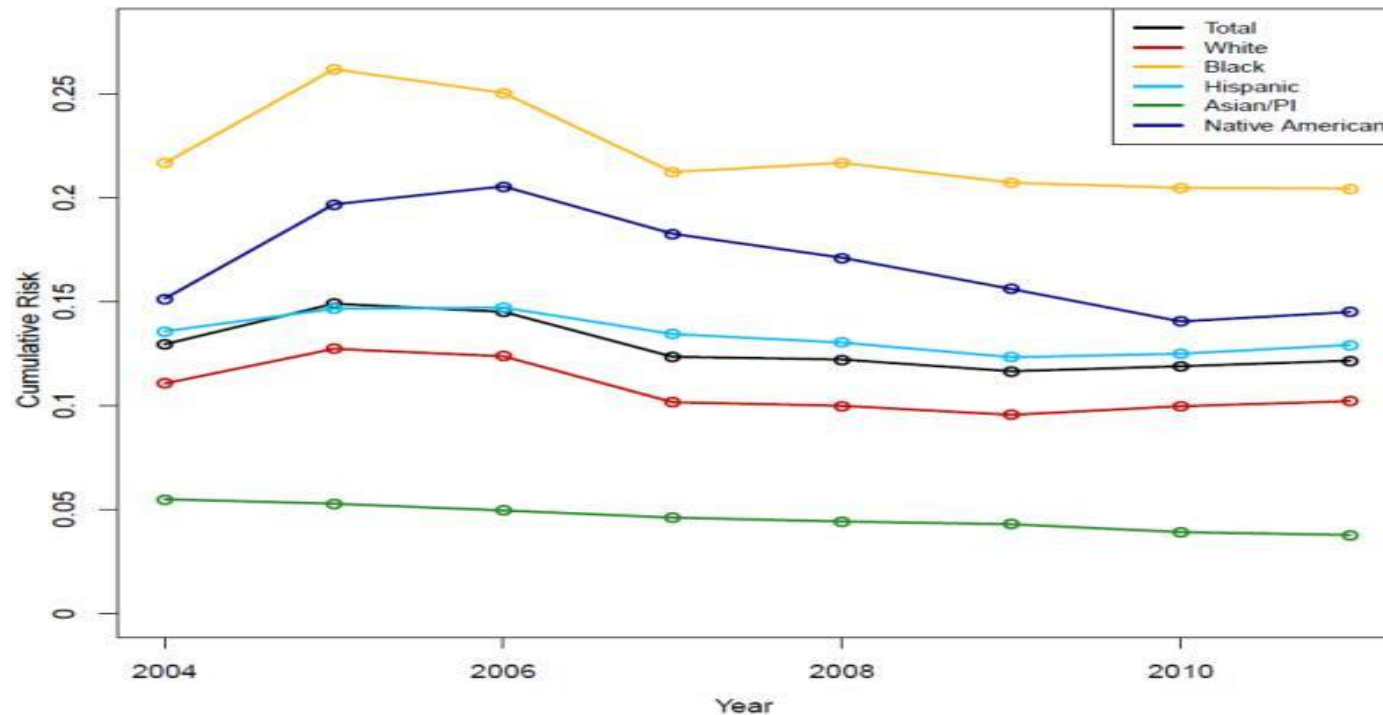
# Underestimating the Scope of Maltreatment

## Perception

- Serious maltreatment is an issue that only impacts a small percentage of children (federal data shows less than 1% of U.S. children are confirmed as victims per year)

## Reality

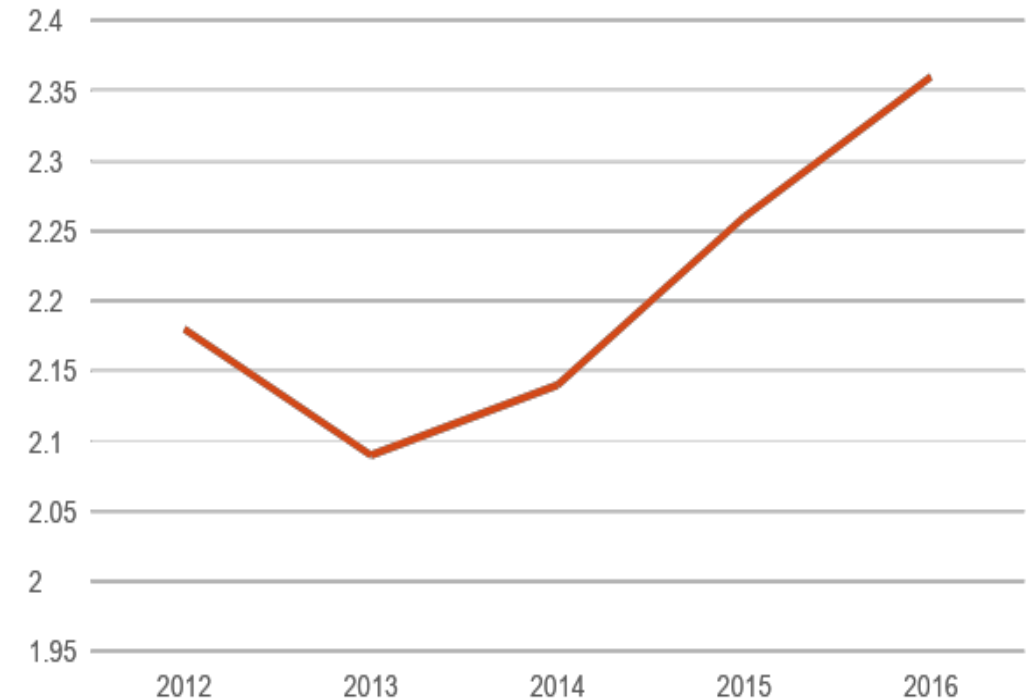
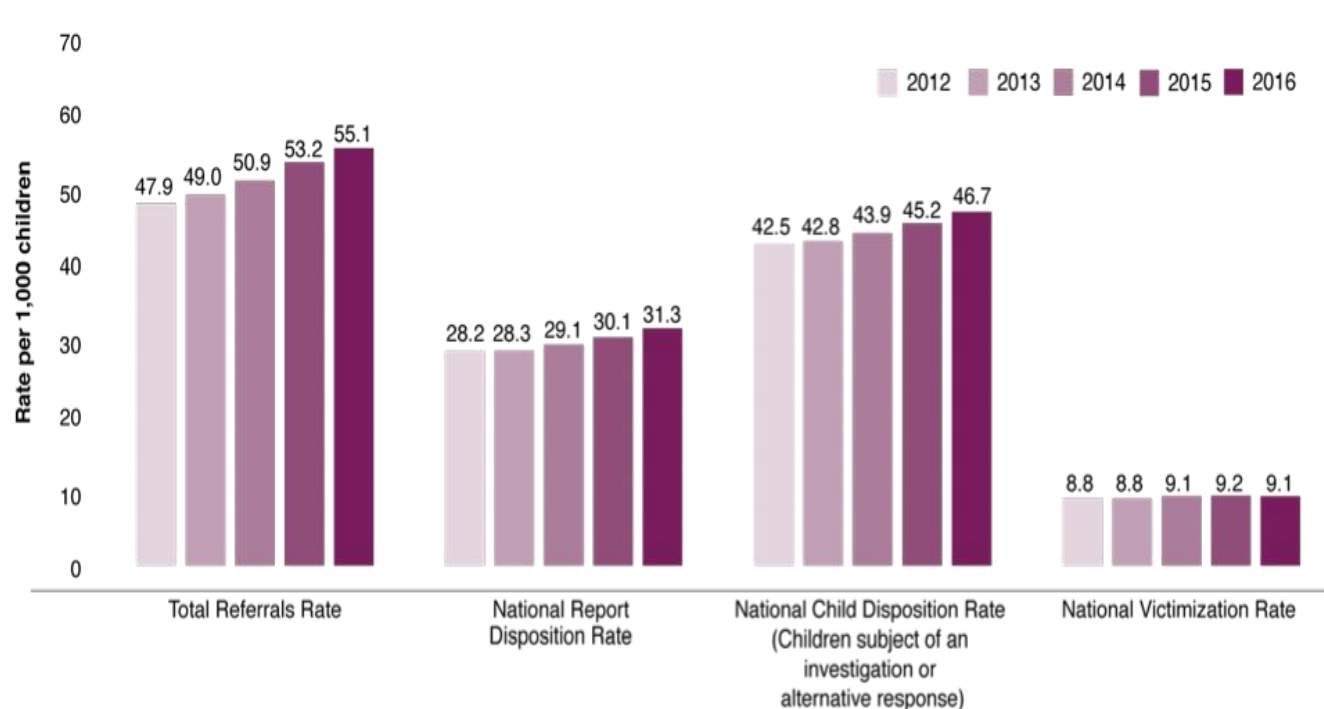
- Research shows that the cumulative child maltreatment rate is much higher- 1 in 8 American children are confirmed as victims by the age of 18 (1 in 5 African-American children)



# And It's Only Getting Worse....

## Child Safety Indicators During Opioid Crisis

Summary of Child Maltreatment Rates per 1,000 Children, 2012–2016



# Impact of the Opioid Crisis

- A recent research [brief](#) issued by the U.S Department of Health and Human Services (HHS) Office of the Assistant Secretary for Planning and Evaluation (ASPE) finds:
  - Foster care caseloads are rising, and that the children being served through the child welfare system represent **more complex and severe cases**
  - Families “come with a range of interrelated issues and needs,” including “domestic violence, mental illness, and long histories of traumatic experiences.
  - Supportive services will need to address “co-occurring problems to support both the parent’s recovery and the child’s safety and well-being.”

# What We Mean By Prevention

## Perception

- The term “prevention” refers to programs and services designed to prevent abuse, neglect and exploitation from occurring in the first place

## Reality

- “Prevention” has become a catch-all term, often used to describe interventions that respond after the occurrence of maltreatment has been confirmed
- “Prevention” in the context of federal reform often refers to prevention of *foster care entry*, not prevention of *maltreatment*



KNOW



SEE



RESPOND



# Frequency of Removals into Foster Care

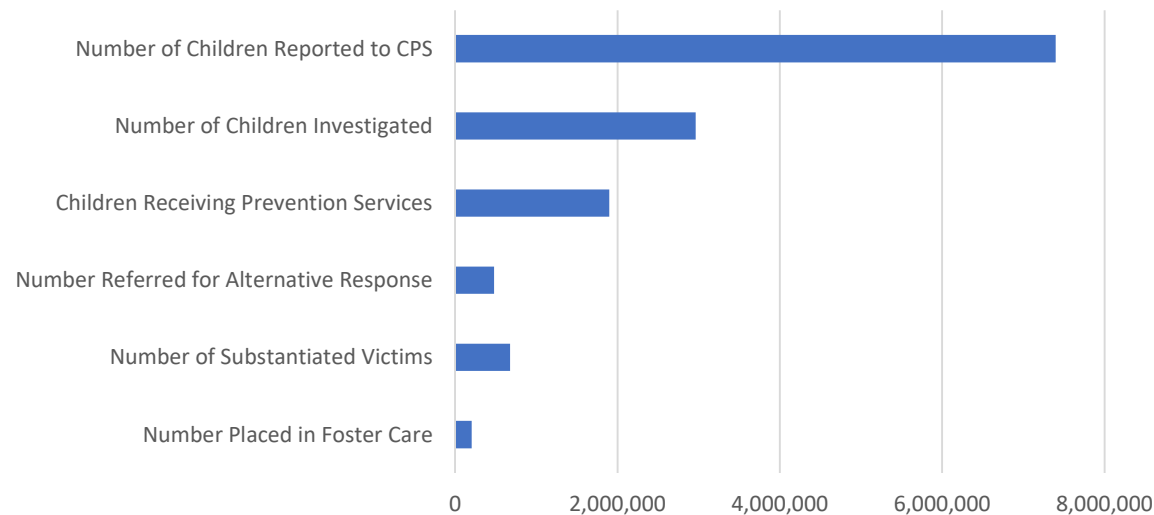
## Perception

- The child welfare system is too punitive, frequently break up families unnecessarily.

## Reality

- In 2016, despite investigating reports concerning almost 3 million children, CPS workers only substantiated maltreatment in about 676,000 cases. Just 203,582 of these children were placed in foster care.
- Removal into foster care is an action that is undertaken infrequently to keep children safe.
- Nationally, the number of children in foster care has decreased sharply over the past two decades (30% decrease between 1999-2012), although it is increasing again due to the opioid crisis.

Frequency of Child Removals (2016)



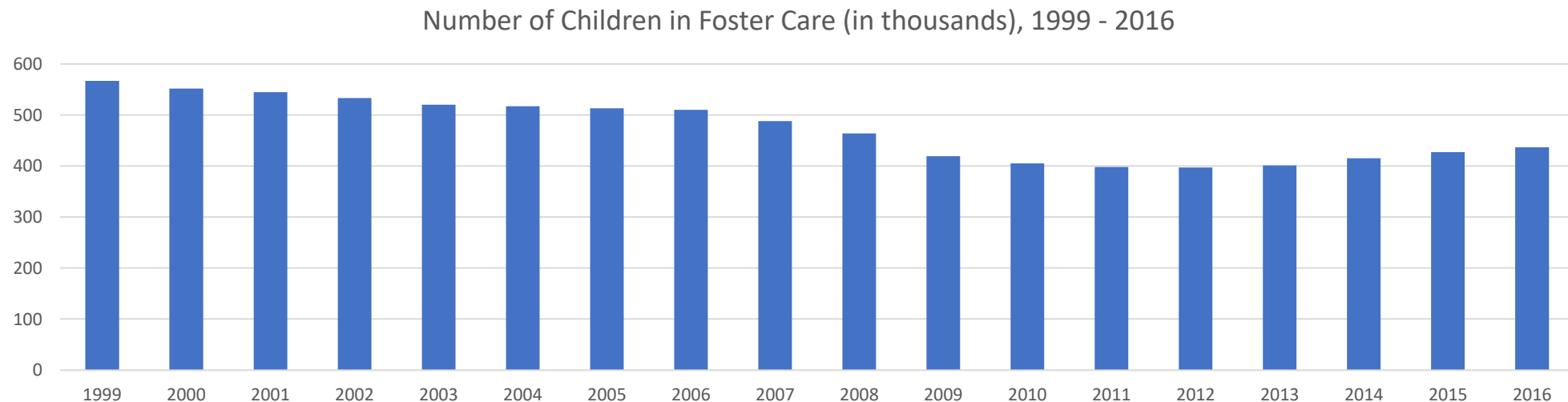
# Foster Care Caseload SWINGS

## Perception

- Child welfare systems continue to break up families unnecessarily, and there are too many children in foster care.

## Reality

- Systems across the country aggressively reduced caseloads for more than a decade until the opioid crisis hit. There was a 30% decline in the number of children in foster care between 1999 and 2012. Since 2012, caseloads have been increasingly steadily each year, reflecting the impact of substance abuse on families.



# Misunderstanding of Use of Neglect

## Perception

- Federal data tells us that most children come into foster care due to “neglect,” so that must mean that children are often being removed from their homes just because their parents are poor and lack the resources to care for their children.



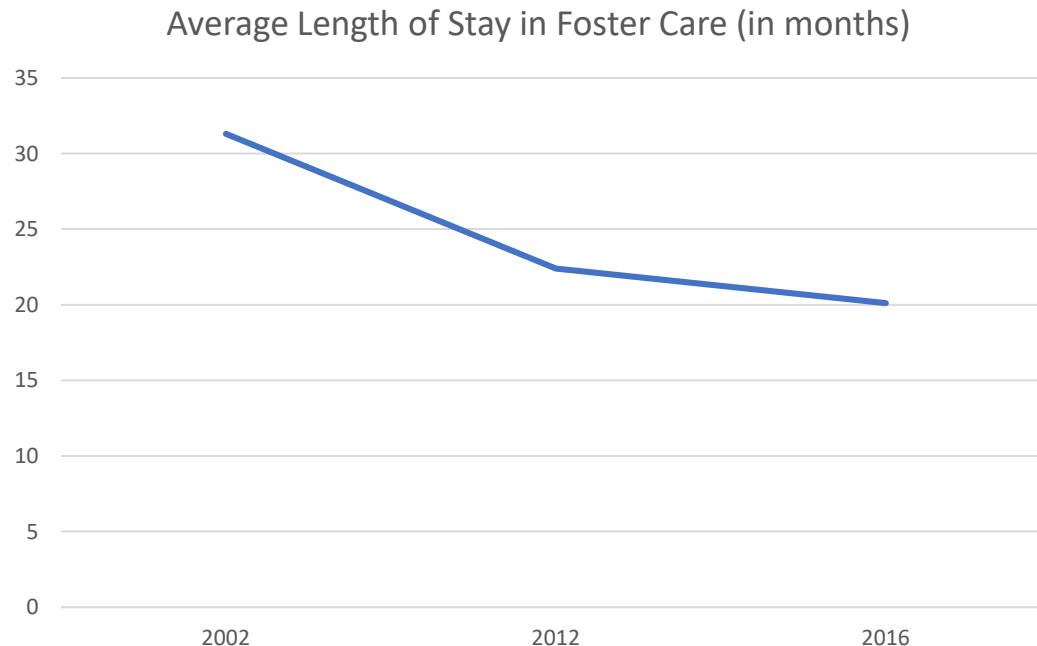
## Reality

- Children cannot legally be removed simply because of poverty- there must be a significant present threat to their safety.
- Neglect allegations are usually the easiest to substantiate, but other forms of abuse are often also present in the same families. Moreover, neglect involving a dangerous lack of supervision or failure to provide the basic necessities of life often indicates the presence of drug abuse and/or mental health issues in a home.
- Chronic neglect has devastating impacts on brain development, and as a predictor of child fatalities neglect is just as dangerous for children as abuse.

# Length of Stay In Foster Care

## Perception

- Families are destroyed when a child is moved into foster care. Most children languish in foster care for many years without going back home or finding a forever family.



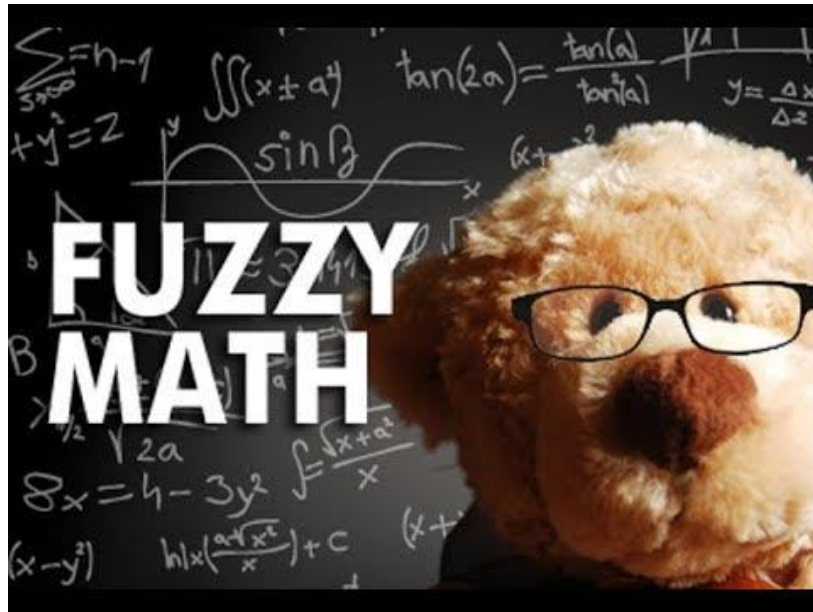
## Reality

- Most children who enter foster care end up going back home to their families. 51% of exits from foster care in 2016 were through reunification.
- Child welfare systems have also made great strides in reducing the length of stay in foster care, moving children to permanency much faster.
- In 2016, the average length of stay for children in foster care was 20.1 months. Almost half of those children spent less than a year in foster care, and about  $\frac{3}{4}$  spent less than 2 years.

# Dollars and Sense

## Perception

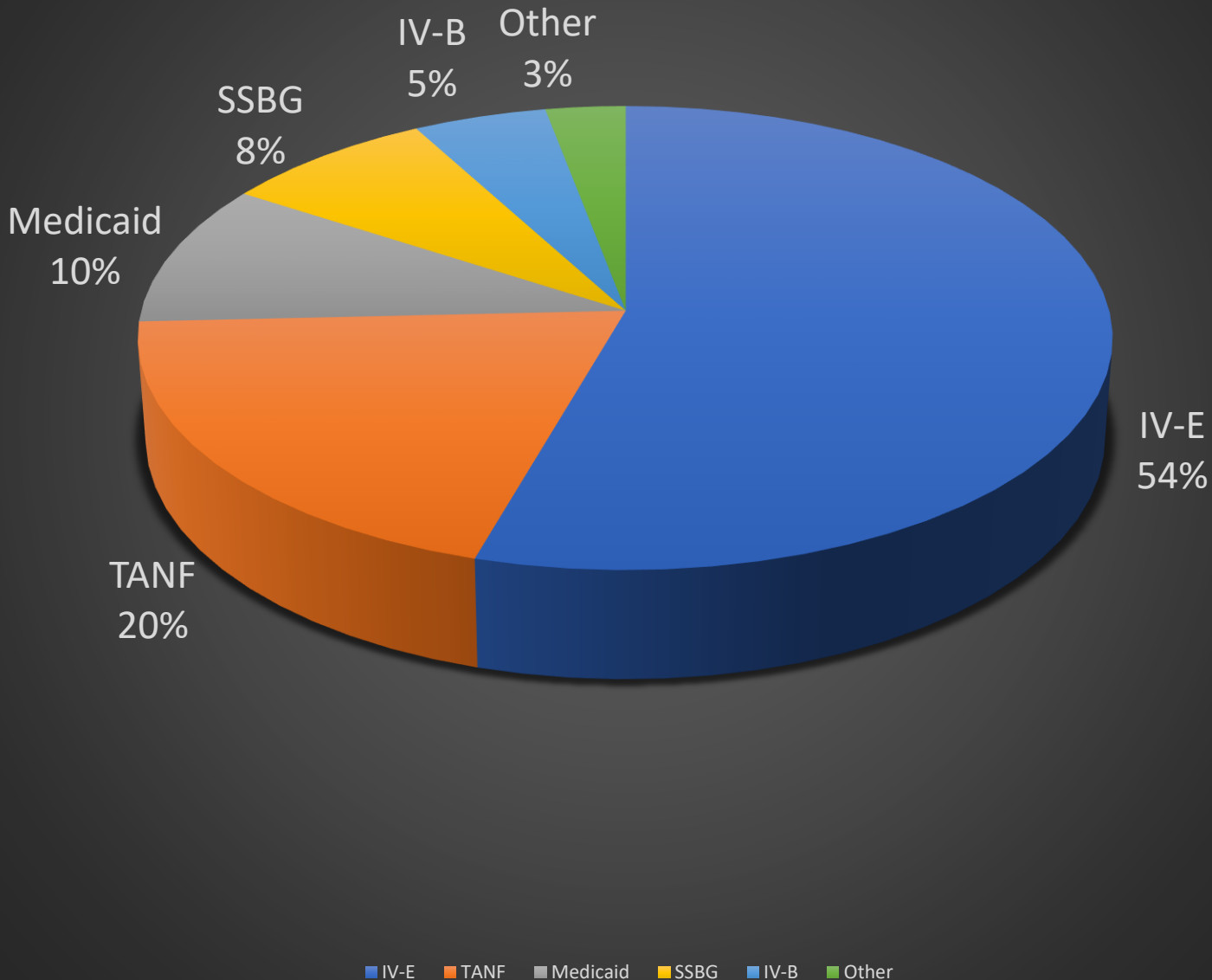
- "The federal government spends \$7 on foster care for every \$1 on prevention."



## Reality

- This oft-repeated phrase is an erroneous and overly simplistic accounting of federal child welfare spending, comparing only Title IV-E and Title IV-B expenditures.
- IV-E supports not just children in foster care, but also children who have been adopted out of the system and children living with relatives in kinship care and/or guardianship.
- It also neglects to count for billions of federal dollars provided to child welfare systems through TANF, SSBG, and Medicaid, as well as hundreds of millions of dollars in other programs designed to prevent child maltreatment like home visiting.

## National Breakdown of Federal Child Welfare Funding



## Federal Child Welfare Funding: A Patchwork of Programs

- Title IV-E serves children in out-of-home care (foster care, group care, shelter care, kinship/guardianship, etc) as well assistance for children adopted out of care.
- Considerable flexible funding comes from TANF, SSBG, Medicaid, and Title IV-B. These funds can be used for a broad range of services including prevention, family preservation, and substance abuse and mental health treatment.
- Through home visiting programs (not pictured), the federal government also provides hundreds of millions of dollars in additional funding to support at-risk pregnant and parenting mothers and their families.

Source: Child Trends national child welfare survey (October, 2016)

Focus on Our Families

# Who Are Our Kinship Caregivers?

- **Senior Citizens:** 15 – 20% of relative caregivers are over the age of 60
- **Fixed Incomes:** 39% of kinship households live below the federal poverty line
- **Disabled:** 38% of kinship caregivers have a limiting condition or disability
- **Limited training:** Kinship foster parents receive little, if any, advance preparation in assuming their role as caregivers.



# How Do They Become Kinship Caregivers?

## Voluntary Kinship Care (informal/diversion)

- Child welfare system is/was involved, but **no formal foster care**
  - Child could be with relative through a Probate Court Guardianship or informal arrangement
  - Child welfare system is not involved in placement
  - May be caring for a child with or without legal custody or guardianship

## Kinship Foster Care (formal)

- Child placed in foster care with a relative either through **court removal** or **Voluntary Placement Agreement**

*NOTE: We are NOT discussing **private** kinship care – when there is no child welfare involvement and parents/guardian arrange for care with kin directly*

# Foster care licensing standards act as barriers to placement and funding with relatives

Generations United, ABA Center on Children and the Law, and the Annie E Casey Foundation conducted **survey of foster care licensing standards to identify trends, problematic standards, and barriers specific to relatives:**

## Problematic Standards

e.g. Such as applicants be no older than 65 unless waiver or applicants able to communicate in English

## Inconsistent Standards

Varying standards for the same type of requirements that should not vary significantly

## Placement Capacity

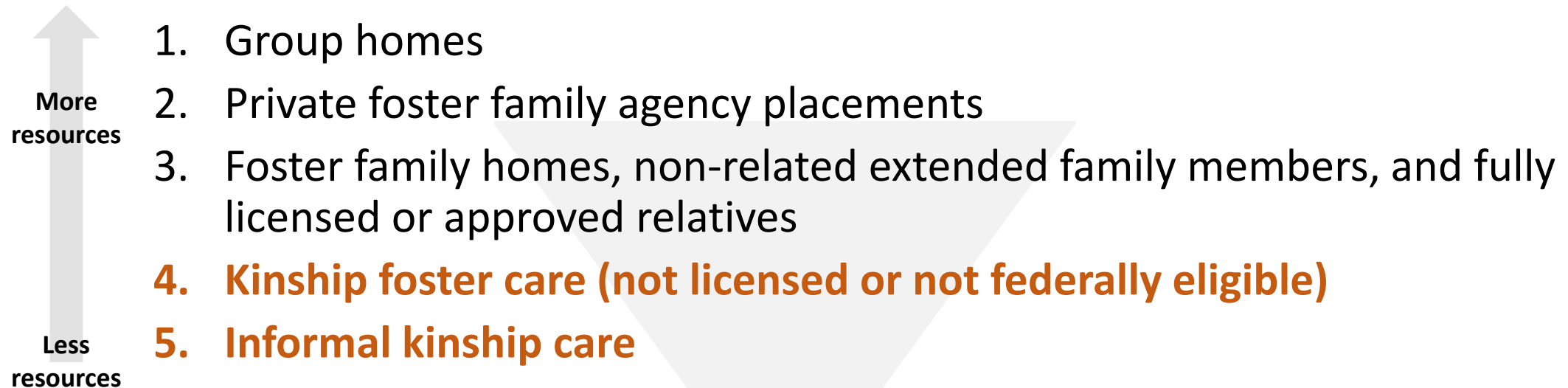
States vary between allowing 3 to 6 foster children in a home, total between 4 to 8 children

## Criminal Convictions

At least 21 states disqualify for crimes beyond those in federal law (Adam Walsh Act)

# How Are Kinship Caregivers Supported?

Our existing continuum of care is **separated into 5 placement categories:**



Under this tiered-system, the **benefits, services and supports that a youth receives differ according to the youth's placement** and, in the case of children placed with a relative, on whether the child is placed with the relative and whether the relative is fully licensed/approved

# Foster Care Funding Plays Key Role in Reducing Risk of Poverty

“Holding child and family demographics constant, foster children have a lower risk of poverty than other children. Analyzing income in detail suggests that foster care payments likely play an important role in reducing the risk of poverty in this group. In contrast, we find that children living with grandparents have a higher risk of poverty than other children, even after taking demographics into account.”

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5484162/>

# Family Service Prevention Services Act

# Overview: Family First Prevention Services Act

- Provisions we will cover today
  - Details of the new option under FFPSA to use Title IV-E for specified **prevention services**
  - Enhanced support for **children and families under Title IV-B**
  - Allowing Title IV-E payments for evidenced based **kinship navigator programs**
  - Reviewing and improving **licensing standards** for placement in relative homes
- Provisions we are NOT covering today
  - Kinship navigator
  - Reducing delays in placing children in homes across state lines
  - Enhancements to grants to improve well-being of families affected by substance abuse
  - Development of statewide plan to prevent child abuse and neglect fatalities
  - Limitations of federal funds for placements that are not in foster family homes
  - Continuing support for Child and Family Services



# ELIGIBILITY



# Who is Eligible?

- Who is **eligible** to receive new **optional prevention services**:
  - (1) A child who is a “**candidate**” for foster care;
  - (2) Youth who are **pregnant, parenting** - or –
  - (3) **A parent or kin caregiver** of the child who is a candidate for foster care is eligible regardless whether or not they meet AFDC income eligibility requirements required for Title IV-E reimbursement



# Definition of “Candidate”

For purposes of this title, “candidate for foster care” means the following:

- A child who is identified in a prevention plan as being at **imminent risk of entering foster care** (same as current definition of candidacy), but who can remain safely in the child’s home or in a kinship placement as long as services available under the new title that are necessary to prevent the child’s entry into foster care are provided
- Includes a child whose adoption or guardianship arrangement is at risk of a disruption or dissolution that would result in a foster care placement

# Gaps in Eligibility

- Prevention services can be provided to children who are removed from their homes – but only if the child remains out of foster care.
  - The kinship placement would not be licensed as a foster home, would not have the same level of oversight, and the caregivers would not be provided with foster care benefits to support the child's care.
  - If the issues within the child's home are not resolved within the 12 month timeframe, the law is silent as to what happens next.



SERVICES



# What Services Can the Child and/or Family Receive

- **What services:**

- (1) Mental health & substance abuse prevention and treatment by a qualified clinician AND/OR
- (2) In-home parent skill-based programs (parenting skills training, parent education, individual and family counseling)

# When Can Services be Provided?

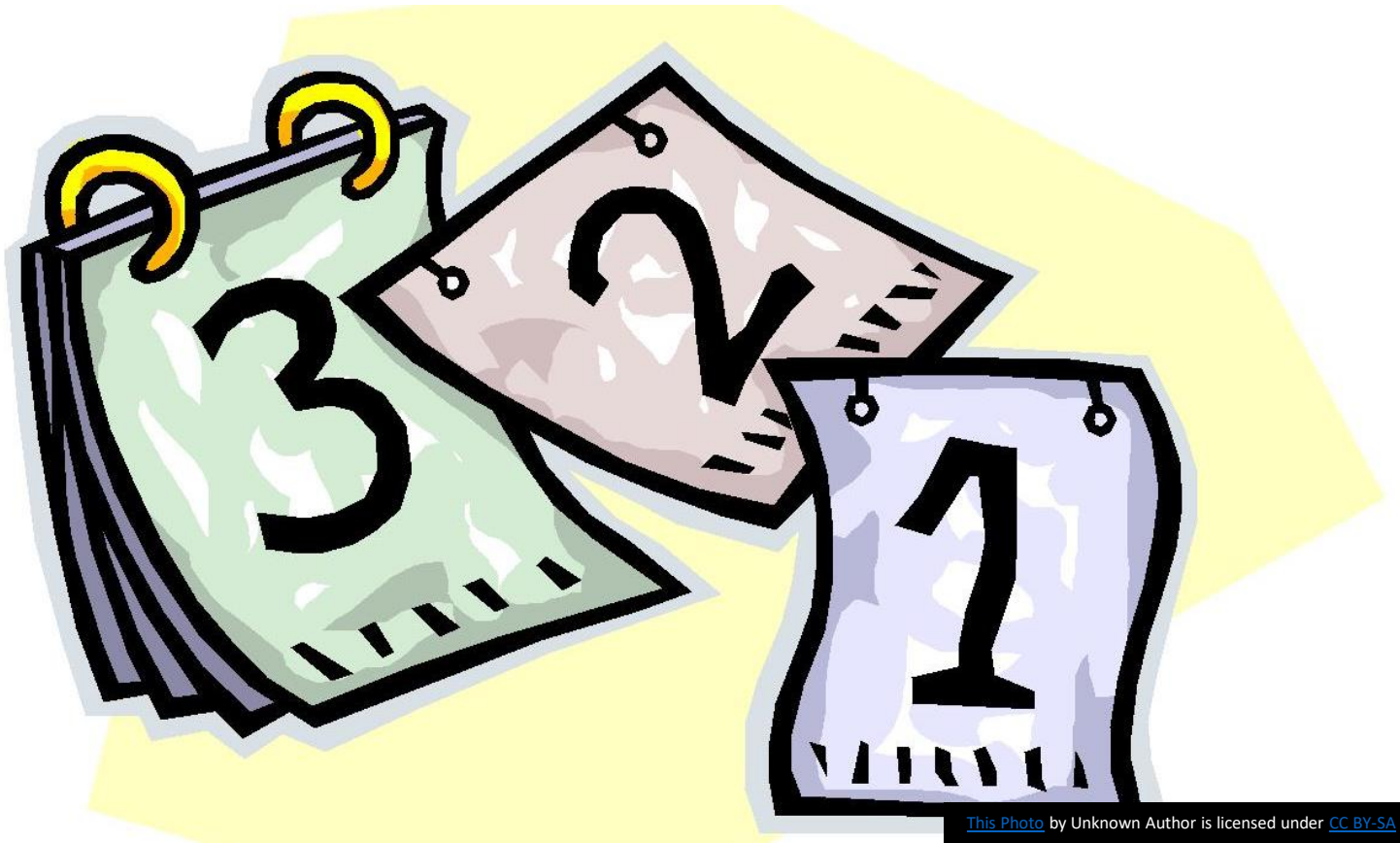
Services can be provided when the need of the child, parent or caregiver for the services or programs is directly related to either:

- The safety, permanence or well-being of the child, or
- Preventing the child from entering foster care



12-month clock starts from the date a child is identified in a “prevention plan” (required by the law) as either:

- A child who is a candidate for foster care, or
- A pregnant or parenting foster youth in need of the services



## How Long Can Services be Offered?

- Funding available for maximum of 12 months

# Documentation Requirement: Prevention Plans

Every child is required to have a written prevention plan to receive these newly allowable services

For children who are candidates:

- Must identify the foster care prevention strategy for the child so that the child may remain safely at home, live temporarily with a kin caregiver until reunification can be safely achieved, or live permanently with a kin caregiver
- Must list the services or programs to be provided to or on behalf of the child to ensure the prevention strategy succeeds
- Must comply with other requirements that the Health and Human Services Agency Secretary may establish

# Documentation Requirement: Prevention Plans for Pregnant and Parenting Youth

- For a **pregnant or parenting foster youth**, the prevention plan must
  - Be included in the child's case plan
  - List the services or programs to be provided to or on behalf of the youth to ensure that the youth is prepared (for pregnant youth) or able (for parenting youth) to be a parent
  - Describe the foster care prevention strategy for any child born to the youth
  - Comply with other requirements established by the Secretary



# Standard for Services

To be eligible for federal reimbursement, services provided under Title I must:

- Be *trauma-informed*, as defined in the law
- Be provided in accordance with a number of *general practice requirements* set forth in the law
- Be practices that are “*promising, supported, or well-supported*” as each is defined in the law (see handout)
- Be *specifically listed and described in detail* in a new prevention programs component of the state plan
- Be individually subjected to a “*well-designed and rigorous*” *evaluation* as part of the state plan, unless the requirement is waived by the Secretary

The Secretary of the DHHS will release guidance no later than October 1, 2018 on practice criteria required for the services and programs and a list of pre-approved services and programs

# State Plan Requirement

- For each 5-year plan period, the required prevention component must include:
  - How the provision of services is expected to improve specific outcomes for children and families
  - How the state will monitor the safety of children receiving these services, which must include periodic risk assessments during the time services are provided and a reexamination of the child's prevention plan if the state determines the risk of entering foster care remains high
  - Very detailed information on the specific practices and evaluation methodologies the state plans to use in its program

# Prevention Services Measures

- Beginning FFY 2021, updated annually:
  - The Secretary will establish prevention services measures, based on data reported by states that opt in.
  - Measures will be publicly available, by state
  - Measures will include:
    - % of candidates who do not enter foster care during the 12 months of services and the 12 months following
    - Per-child spending for each service component

# Maintenance of Effort

- States that opt in must maintain their level of prevention expenditures for FFY 2014
  - Defined in statute, includes TANF, IV-B, SSBG, and other state programs outside of the IV-E program, including waiver spending
  - Also includes local agency spending
  - Includes spending that is matched by the federal government as well as unmatched state/local spending
  - Prohibits “double dipping” of federal matching funds

# Other Prevention Services Fiscal Provisions

- Specifies that federal matching funds for these programs and services are available without regard to Title IV-E federal eligibility of the child
- Fixes “home of removal” issue identified in original bill, allowing child entering care after more than six months out of their biological parents’ home to be eligible
- Clarifies that receipt of services is not considered aid for purposes of other federal eligibility determinations
- Provides for tribes, tribal consortiums or organizations to provide a similar set of prevention-related services through conforming amendments.
- Provides \$1m annually for a data collection, research and best practices clearinghouse related to these services



## Family Reunification Services Timeframes

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- Amends timeline for provision of family reunification services under Title IV-B
  - Allows for indefinite provision of services while a child is in foster care
  - Allows for up to 15 months of post-reunification services to families after a child returns home

# Consider Again the Opioid Crisis....

- U.S. Department of Health & Human Services (HHS) notes that most opioid-related cases are “more complex and severe” and include a range of “co-occurring issues” in addition to substance abuse, including mental health, domestic violence, and long exposure to trauma
- Opioid-related addiction is more intense and due to easy accessibility has a higher relapse rate than other substances; children entering care expected to stay longer
- Opioid addiction is more likely to be inter-generation than previous drug crises, limiting availability of kinship placements
- Broad range of intensive services will be needed beyond what FFPSA authorizes
- Duration: 12 month duration of services is not enough as substance abuse and mental health issues often take much longer to heal
- **FFPSA's services fall short in scope and duration of services**

# Gaps in Services: Focus on Parent to Exclusion of the Child

- Services available through FFPSA are largely directed at the parent
  - Mental Health Counseling
  - Substance Abuse Treatment
  - Parenting Skills Training
- Services are ONLY available to children kept out of foster care, depriving the child of:
  - Foster care payments, including adoption assistance and guardianship assistance
  - Reunification services
  - Case management
  - Representation and advocacy by an attorney who is charged with representing the best interest of the child



# Gaps in Services: Focus on Parent – Not the Kinship Caregiver

- Services available through FFPSA are largely directed at the parent
  - Mental Health Counseling
  - Substance Abuse Treatment
  - Parenting Skills Training
- Services are ONLY available to children kept out of foster care, not the types of things kinship caregivers typically need like:
  - Monthly financial assistance
  - Housing or rental assistance
  - Respite care
  - Crisis intervention services
  - Child care



# LICENSING and RESIDENCE



# Where can the child be living while preventative services are provided?

## Where children can be living:

- In the home of the parent(s)
- In the home of kin caregiver until child can be safely reunified
- In the home of kin caregiver who child will live with permanently
- In a licensed residential treatment facility for substance abuse if
  - Recommendation for placement is specified in the child's case plan before the placement
  - The treatment facility provides, as part of the treatment for substance abuse, parenting skills training, parent education, and individual and family counseling
  - The substance abuse treatment, parenting skills training, parent education and individual and family counseling is provided under an organizational structure and treatment framework that is trauma-informed

# FFPSA helps ensure more kin families can be licensed

- By **October 1, 2018**, HHS must identify a model of family foster home licensing standards
- By **April 1, 2019**, each state must report to HHS
  - are the state standards in accord with the model and if not, why not?
  - does the state waive non-safety licensing standards for relatives, as allowed by federal law?
  - which standards does the state most commonly waive?
  - if the state does not waive, why not?
  - how are caseworkers trained to use the waiver authority?
  - does the state have a process or tools to assist caseworkers in waiving non-safety standards so they can place quickly with relatives?
  - what steps are the state taking to improve caseworker training or the process?

# FFPSA Creates Two Paths for Kinship Caregivers

	Prevention Path with Diversion to Kinship Caregiver	Placement Path: Enabling Kin to Meet Licensing Standards
Funding for Caregiver?	<b>Limited funding</b> available to support kin caregiver – in most states, TANF is available (in some states, kin cannot even receive TANF)	<b>Full foster care funding</b> – in CA this includes access to specialized care increment, clothing allowance, infant supplements, and dual agency rates
Who receives services?	Prevention services <b>targeted primarily at the bio parent</b> /home of removal	<b>Reunification services</b> offered to the parent while child receives <b>legal representation</b> and <b>case management services</b>
Duration of services?	Prevention services offered <b>limited to 12 months</b>	<b>No limitation</b> on amount of time for reunification services while child is in foster care + <b>15 months of post-reunification services</b>
Permanency options and funding for permanency?	No requirement that the state make a formal placement with the relative if the child is not able to be reunified with the parent – FFPSA allows the prevention strategy to be the <b>permanent home of the relative without any additional services or funding</b>	Child is either reunified or can remain with relative through <b>adoption, guardianship, or as an Fit and Willing Relative</b> – all options offer <b>continued funding for kin families (AAP, KinGAP, or continued foster care funding)</b>

# Risk of Inappropriate Diversion

# What are the implications of inappropriate diversion?

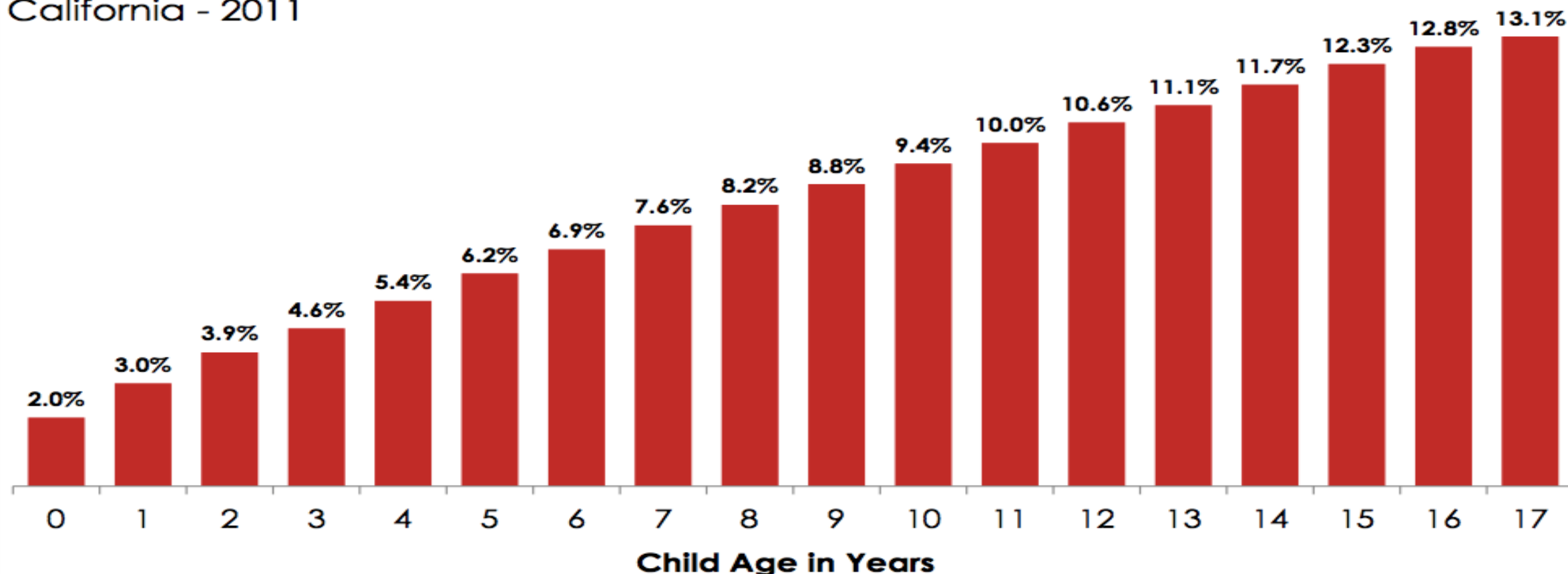
- Well meaning policies are implemented on the ground with devastating results
- Difference between: (1) ensuring only the right youth come into care vs (2) lowering caseloads is the goal and a good in and of itself.



# SUBSTANTIATED VICTIMS?

SYNTHETIC COHORT APPROACH (WILDEMAN ET. AL., FORTHCOMING)

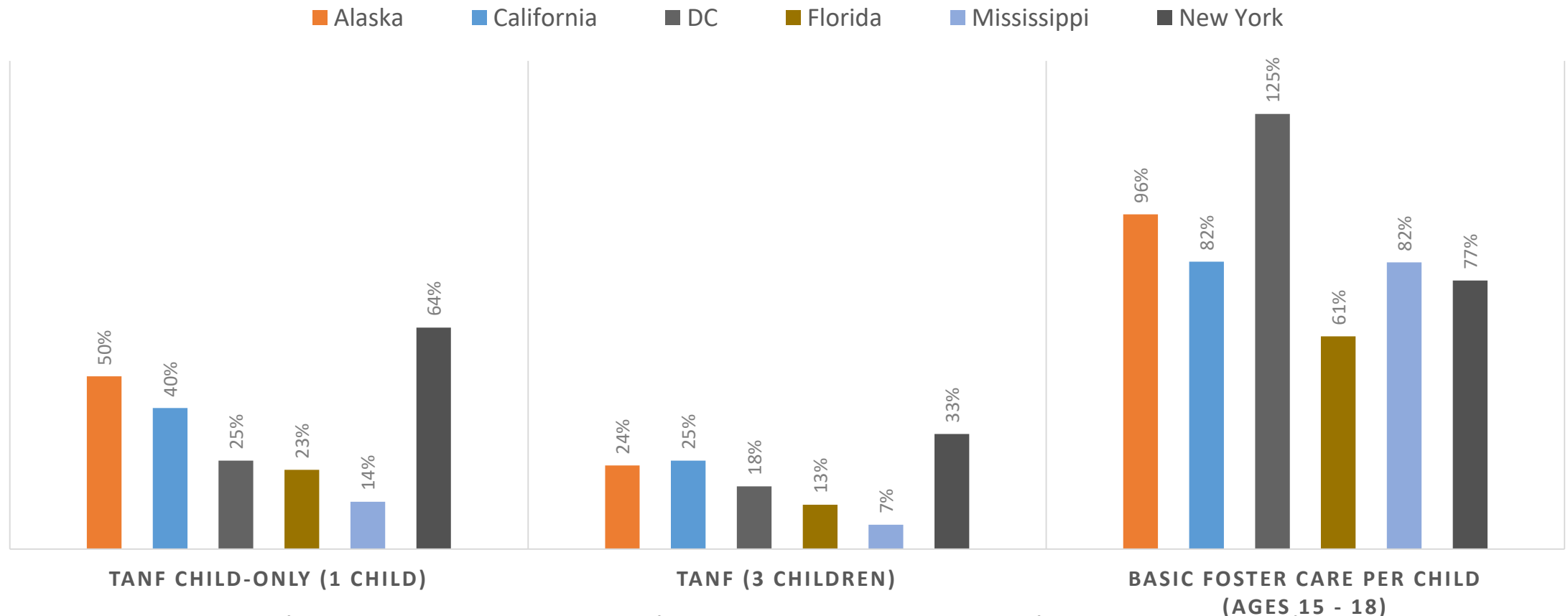
Cumulative Percentage of Children Substantiated as Victims of Abuse or Neglect Between Birth and Age 17  
California - 2011





# Reliance on TANF to support kinship families sets families up to fail

TANF child-only vs. TANF 3-child grant vs. Basic Foster Care Rate as a % of Estimated Cost of Providing for the Needs of a 15-18 Year Old



**Source:** 2011 data from GAO Report. Foster Care Payments are from the Annie E Casey Report and the data is from 2011. The monthly cost of care is estimated in the same Annie E Casey report using 2011 data.

# Additionally, disintegrating federal safety net further erodes support to kin caregivers

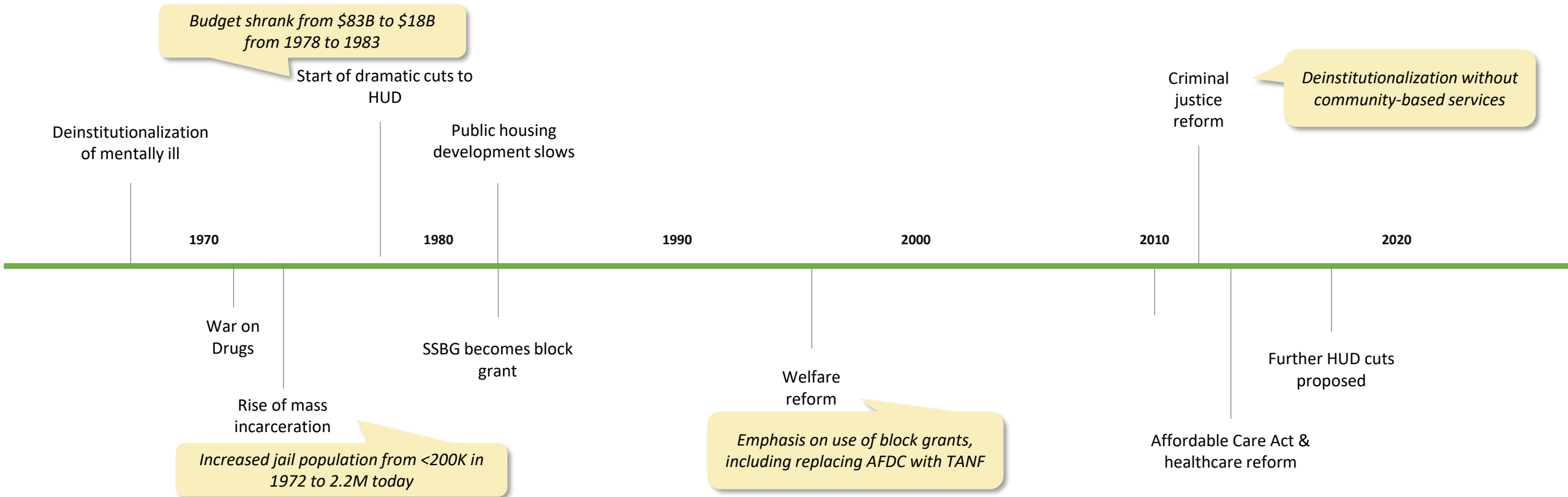
Children placed with kin fare better...

...**BUT** kinship caregivers are “*substantially less likely than foster caregivers to receive financial support, parent training, peer support groups, and respite care*”



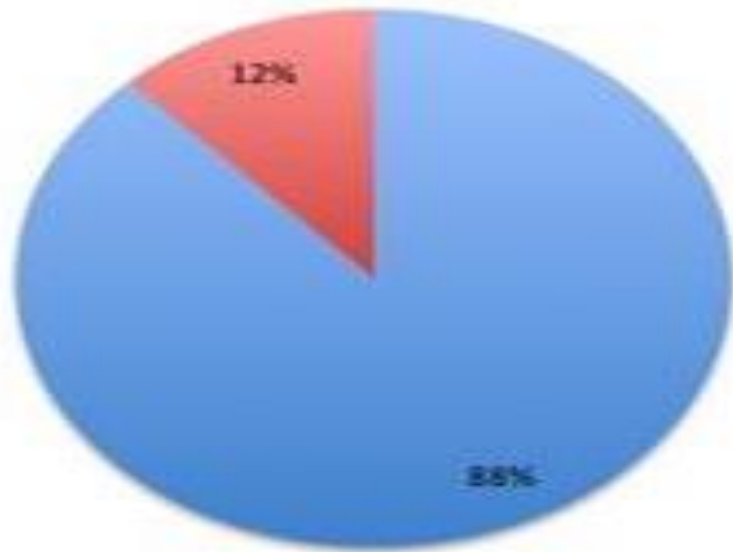
- Less than **12%** receive TANF (nearly 100% are eligible)
- **42%** receive SNAP benefits
- **42%** of children in kinship receive Medicaid (nearly 100% are eligible)
- **17%** of low-income working kinship families receive child care assistance
- **15%** of low-income kinship families receive housing assistance

# Impacts of Opioid Crisis Worsened by Persistent Destabilization of Families Living in Poverty



# Inappropriate Diversion Increases Youth Homelessness

**88% of Homeless Youth Report Experiencing Physical, Emotional and Sexual Abuse Prior to Becoming Homeless**



# Inappropriate Diversion Has Equity Implications

- Inappropriate diversion may have a disparate impact especially on older African American and LGBT youth
- The result of this impact is to delay interventions – increasing the likelihood of cumulative trauma – and to push these youth into the homelessness and juvenile justice systems.



# Case Study

- Felicity was 16 and living in a homeless shelter. The subject of multiple CPS reports when she was younger and still living with her mother, Felicity was eventually moved to her grandmother's house with the assistance of the CPS investigation worker. No foster care case was filed. CPS suggested to Felicity's grandmother that she obtain a probate court (i.e., non-dependency) guardianship. Felicity's grandmother obtained such a guardianship with the hope that it would come with additional funding. It did not.
- Living on a fixed income, Felicity's grandmother did her best to take care of Felicity and four other children in the home. With mounting credit card debt and Felicity continuing to act out at school, her grandmother dropped her off at her mother's house when Felicity was 15 years old. Feeling unsafe, Felicity left home and has been living in homeless shelters ever since. Last month, she called CPS to ask for help but was told that she could return home and there was nothing CPS could do for her.

# Shifting Focus -- Not Preventing Foster Care But Preventing Avoidable Trauma

- No child should be in foster care
- No child should be denied safety
- No child should have to experience avoidable suffering, trauma, and/or homelessness



# Implementation



# Opportunities Offered by Family First

- Support children in the home of a bio parent with prevention services funded by Title IV-E
- New opportunities to support pregnant and parenting youth
- No time limit on reunification services for children in foster care + 15 months of services after reunification
- Expand kinship navigator programs
- Allow children who have exited foster care to guardianship or adoption to receive prevention services without having to disrupt that permanent relationship

# When a Child Cannot Remain Safely at Home... Support the Parent, Child AND Caregiver



## *Practice Tip*

Use **voluntary placement agreements (VPAs)** to formalize and unlock support access for youth diverted out of foster care to be placed with kin

# Voluntary Placement Agreements

- Allows the child welfare agency and parent to agree to a short-term voluntary placement so parent can work towards rehabilitation and reunification
- Avoids court-ordered removal
- Limited to 180 days – federal funding can only continue beyond 180 days if there is a judicial determination that remaining in the placement is in the best interest of the child
- Full foster care benefits are available to kinship caregivers who accept placement through a VPA
- State must have provision in its state plan to be able to use a voluntary placement agreement and claim Title IV-E for the foster care payment

# Questions for Federal Regulators

- If a state opts in, can it target services to specific populations (i.e., only pregnant/parenting foster youth)?
- What is the time frame for a state to decide to opt in?
- Is there a statewideness requirement?
- Can waiver counties participate and receive these funds?
- Must a state that opts in continue to provide these services or is it a decision made each fiscal year?
- Is the drawdown of new funds enough to offset the significant administrative requirements in the legislation?

# Questions for Federal Regulators

- What are the types of “services and programs” that will be considered to be promising, supported, or well-supported?
- Will specialty mental health services, such as individual or group therapy, provided through a county behavioral health department qualify?
- How will the “trauma-informed” requirement be applied in practice, given the shortage of such providers?
- How active will the Administration be in denying certain services and programs a state wants to provide?

# Questions?



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