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Senate Committee on Finance  
Attn. Editorial and Document Section  
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VIA EMAIL: [Statementsfortherecord@finance.senate.gov](mailto:Statementsfortherecord@finance.senate.gov)

June 4, 2024

**Re: May 22, 2024 Hearing on “The Family First Prevention Services Act: Successes, Roadblocks and Opportunities for Improvement”**

**Submitted by: Allison Green, Legal Director, National Association of Counsel for Children, 899 North Logan Street, Suite 208, Denver, Colorado, 80203**

Dear Committee Members:

The [National Association of Counsel for Children](https://www.naccchildlaw.org/) (NACC) respectfully submits this statement for the record following the May 22, 2024 hearing on the Family First Prevention Services Act (FFPSA). NACC represents a national membership community of attorneys who practice in child welfare courts, advocating on behalf of children, parents, kin and agencies. Over the last six years, these practitioners have had a front row seat to state efforts to implement FFPSA; many have also served as collaborators in their jurisdiction’s implementation committees and task forces.

NACC appreciates the Family First Act’s bipartisan focus on addressing the unnecessary institutionalization of youth in residential treatment facilities.<sup>1</sup> As Senator Wyden affirmed in his opening statement, “[w]arehousing kids instead of helping set them up for success is lazy policy, and leads to worse outcomes for kids.” This is why Senator Crapo is wholly correct that Congress must “continue to build on [...] bipartisan work” and ensure “high-quality, trauma-informed treatment.”

FFPSA’s establishment of the Qualified Residential Treatment Program (QRTP) classification was an important first step towards this goal. The Act seeks to bring transparency and scrutiny to these placements vis-a-vis court review at the time of initial placement in a QRTP and on an ongoing basis thereafter. The law requires evidence and the opportunity for due process at each of these junctures to ensure QRTP decisions are meaningful, not perfunctory. However, these safeguards are hollow unless parents and youth have the assistance of an attorney to navigate the judicial process. Foster youth are especially vulnerable in states that do not guarantee them legal representation.<sup>1</sup> ***To overcome this roadblock to FFPSA implementation, Congress must pass federal law requiring legal representation for every youth and parent in foster care.*** This

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<sup>1</sup> NACC’s [Policy Framework](#), which was shaped by our staff, Board, member community and lived experience [Advisory Council](#), explicitly calls to avoid such placements.

proposal enjoys bipartisan support, is backed by a strong body of research, is already funded by the federal government, and will help mitigate the harms of unnecessary institutional placement.

**Bipartisan Support** – the longstanding need for legal counsel in foster care court proceedings has been championed by leaders from both parties.

- Under former President Trump, the Department of Health and Human Services [changed long-standing administrative policy](#) to open federal funding for children’s and parent’s attorneys and [released important guidance](#) to the field to support implementation. [Executive Order 13930](#) further affirmed the former administration’s commitment to this issue.
- Under President Biden, HHS has continued to promote this initiative, citing it as [a strategic priority](#). As Commissioner Jones Gaston testified at the recent hearing, HHS recently [finalized a regulation](#) that permanently codifies this funding for legal counsel.
- Similarly, in Congress, leaders from both parties have come together on this issue. In June 2021, the Senate HELP Committee unanimously [voted in favor](#) of a proposal that would have embedded this mandate in law. The proposal had [broad national support from across the country](#) as well.

**Backed by Research** – research shows that legal representation for children and parents helps child welfare state agencies meet their mandate.

- A [2021 study from Washington State](#) found that, compared to children without attorneys, children receiving standards-based legal representation were 45% more likely to reunify, 30% less likely to change foster homes, and 65% less likely to experience unnecessary school moves. These results did not expand state costs (in fact, they may have yielded fiscal savings). This is just one [of many studies](#) confirming the impressive impact of counsel for kids.
- When children achieve permanency more swiftly, they are less likely to have unnecessary, protracted stays in institutional environments. Safe reduction of a state’s overall foster care population also alleviates pressure to utilize these facilities as “last resort” placements.

**Funding in Place** - Prior concern this reform would constitute an “unfunded mandate” is now mitigated, thanks to a recently opened Title IV-E funding stream, as well as other federal resources.

- As noted above, the U.S. Children’s Bureau has granted matching funds for parent and child legal representation since 2019. The [most recent available public data](#) shows that at least 26 states and 3 tribes are utilizing this opportunity (See column AG). Others have [readily followed suit](#); NACC anticipates that the next federal report will show at least 75% utilization cross states.
- In addition to Title IV-E, other federal funding streams support child welfare legal representation across the country. These include Social Services Block Grants, State Opioid Response Grants, the Victims of Crime Act, [and more](#).

**Attorney Oversight of Institutional Placements** – When a youth is placed in an institutional care setting, their attorney may be the only person they can rely on to report concerns, file grievances, or elevate issues to a judge’s attention. Counsel for kids routinely:

- Investigate these facilities prior to placement, verifying what services are (or are not) offered, staff credentials, accreditation history, regulatory infractions, local law enforcement utilization, and more.
- Ensure fidelity to the Family First Act’s court oversight requirements – including court hearings to challenge placement in RTCs when recommended over the objection of a child or their parent.
- Monitor and challenge the overutilization of psychotropic medication and other chemical and physical restraints.

- File motions or other legal tools to terminate institutional placement when conditions are unsafe, unsanitary, or contrary to a youth's best interest.

Legal counsel are necessary partners for achieving FFPSA's goals. NACC urges the Committee to prioritize this reform in any future amendments. We invite you to review our [Policymaker's Guide to Counsel for Kids](#) and welcome the opportunity to talk more about this important issue. Please feel free to reach out to me using the contact information below.

Sincerely,

A handwritten signature in black ink, appearing to read "Allison Green", written over a light gray rectangular background.

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<sup>1</sup> Thirteen states currently do not guarantee legal representation for all children in foster care: Alaska, Florida, Hawaii, Idaho, Illinois, Indiana, Maine, Minnesota, New Hampshire, North Dakota, South Carolina, Texas, and Washington.