

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: HM 817

INTRODUCER: Representatives Harrell and Williams

SUBJECT: Renewal of Title IV-E Waivers for Child Welfare Services

DATE: February 9, 2018 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	Favorable
2.	_____	_____	GO	_____
3.	_____	_____	RC	_____

I. Summary:

HM 817 is a memorial to the U.S. Congress requesting legislation under which Florida’s existing Title IV-E waiver for child welfare services could be renewed in lieu of a return to traditional federal Title IV-E funding. The memorial presents the rationale for continuing the existing Title IV-E waiver beyond September 30, 2019.

HM 817 also directs that copies of the memorial be provided to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress. Legislative memorials are not subject to the Governor’s veto power and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

II. Present Situation:

Title IV-E Funding for Child Welfare

Congress appropriates funds to states through a variety of funding streams for services to children who have suffered maltreatment. One of these funding streams is Title IV-E of the Social Security Act. Title IV-E provides federal reimbursement to states for a portion of the cost of foster care, adoption assistance, and (in states electing to provide this kind of support) kinship guardianship assistance on behalf of each child who meets federal eligibility criteria. Title IV-E also authorizes funding to support services to youth who “age out” of foster care, or are expected to age out without placement in a permanent family. While Title IV-E funding is an entitlement, eligibility is limited to those children who:

- Are from a home with very low income (less than 50 percent of federal poverty level in most states);
- Have been determined by a judge to need to be in care;

- Are living in a licensed family foster home or a “child care institution;” and
- Are under 18 years old, unless the state has included older youth in its Title IV-E plan.

A Congressional Research Service analysis estimates that less than half of the children in foster care met Title IV-E foster care eligibility criteria in 2015.¹

Eligible Title IV-E expenditures include:

- Foster care maintenance payments for the child’s room and board;
- Caseworker time to perform required activities on behalf of eligible children in foster care or children at imminent risk of entering foster care. These activities include finding a foster care placement for a child and planning services necessary to ensure the child does not need to enter care, is reunited with his or her parents, has a new permanent home, or is otherwise prepared to leave foster care;
- Program-related data system development and operation, training, and recruitment of foster care providers; and
- Other program administration costs.

The federal government pays a share of these costs ranging from 50-83 percent, depending on the nature of the expenditure. When determining foster care maintenance payments, an additional consideration is the state’s per capita income.²

Title IV-E Waivers

First authorized by Congress in 1994, the goal of permitting waivers of specific Title IV-E requirements is to allow states to demonstrate alternative and innovative practices that achieve federal child welfare policy goals in a manner that is cost neutral to the federal Treasury. Each project has a specific approval period which is typically five years, must be determined to cost the federal government no more in Title IV-E support than it would without the waiver project, and must be independently evaluated.³

Currently 26 states, including Florida, have approved child welfare demonstration projects commonly referred to as IV-E waivers. Under the terms and conditions of their specific waiver agreement, each of these jurisdictions is permitted to use Title IV-E foster care funds to provide services or assistance to children and their families, even if those children or those services or assistance would not normally be considered eligible.

Title IV-E waiver projects vary significantly in geographic and program scope. Some operate on a statewide basis, others are limited to specific regions or counties in the state. The interventions may focus on different age groups of children and different service needs or circumstances such as children:

- Entering care for the first time;

¹ Emelie Stoltzfus, *Child Welfare: An Overview of Federal Programs and their Current Funding*, CONGRESSIONAL RESEARCH SERVICE, January 10, 2017, p. 13-15, available at: <https://fas.org/sgp/crs/misc/R43458.pdf> (last accessed February 7, 2018).

² *Id.*

³ *Id.*

- At risk of entering care;
- Transitioning from group care to home; and
- With substance-abusing parents.⁴

A smaller number of projects address other issues, such as:

- Preventing or reducing the use of group care for children in foster care;
- Addressing behavioral health needs of children;
- Addressing needs of caregivers with substance use disorders; and
- Reducing placement instability for children in foster care.⁵

Florida's Title IV-E Waivers

Florida's original Title IV-E waiver was effective on October 1, 2006, and was in effect for five years. Key features of the waiver were:

- A capped allocation of funds, similar to a block grant, distributed to community-based care lead agencies for service provision;
- Flexibility to use funds for a broader array of services beyond out-of-home care; and
- Ability to serve children who did not meet Title IV-E criteria.⁶

The federal government extended Florida's original waiver to 2014, then approved a renewal retroactively beginning October 1, 2013. The renewal is authorized until September 30, 2018. The renewal waiver's terms and conditions include the following goals:

- Improving child and family outcomes through flexible use of Title IV-E funds;
- Providing a broader array of community-based services and increasing the number of children eligible for services; and
- Reducing administrative costs associated with the provision of child welfare services by removing current restrictions on Title IV-E eligibility and on the types of services that may be paid for using Title IV-E funds.⁷

Like the original waiver, the renewal waiver also involves a capped allocation of funds, flexibility to use funds for a wider array of services, and expanded eligibility for children.⁸

Under current law, the U.S. Department of Health and Human Services is not authorized to grant any new child welfare waivers, and no state may operate a waiver project after September 30,

⁴ U.S. Department of Health and Human Services, Administration of Children and Families, Children Bureau, *Summary of Child Welfare Waiver Demonstration by Jurisdictions*, June 2016, available at: http://www.acf.hhs.gov/sites/default/files/cb/waiver_summary_table_active.pdf. (last visited February 7, 2018).

⁵ James Bell and Associates, *Summary of the Title IV-E Child Welfare Waiver Demonstrations, prepared for Children's Bureau, ACYF, ACF, HHS*, August 2016, available at: http://www.acf.hhs.gov/sites/default/files/cw_waiver_summary2016.pdf. (last visited February 7, 2018).

⁶ Amy C. Vargo et al., *Final Evaluation Report, IV-E Waiver Demonstration Evaluation, SFY 11-12*, March 15, 2012, available at: <http://www.centerforchildwelfare.org/kb/LegislativeMandatedRpts/IV-EWaiverFinalReport3-28-12.pdf>. (last visited February 7, 2018).

⁷ Personal communication from JooYeun Chang, Associate Commissioner with the Children's Bureau, to Esther Jacobo, Interim Secretary of the Department of Children and Families, available at: <http://www.centerforchildwelfare.org/kb/GenIVE/WaiverTErms2013-2018.pdf>. (last visited February 7, 2018).

⁸ *Id.*

2019.⁹ Therefore, Florida will revert to more restrictive Title IV-E federal funding requirements beginning in 2018, or in 2019 if the waiver is renewed for an additional year.

Federal Family First Prevention Services Act

The Family First Prevention Services Act was a bipartisan bill that would reform many of the federal child welfare financing mechanisms to help better support families. The bill aimed to prevent their children from entering foster care by allowing federal reimbursement for services to families and children.¹⁰ The bill also contained provisions designed to improve the well-being of children already in foster by incentivizing states to reduce placement of children in group care.

The provisions in the Act were included in the “Bipartisan Budget Act of 2018” that was enacted by Congress and signed into law by the President on February 9, 2018. This would appear to indicate that waiver extensions are unnecessary or will be considered by Congress.

III. Effect of Proposed Changes:

The memorial requests that Congress amend federal law to allow for the extension of the existing Title IV-E waiver beyond September 30, 2019. An extension on the existing waiver program would give Florida the flexibility to continue alternative funding models and preserve the expanded array of services and supports that have been developed statewide. In the absence of an extension for the existing waiver, maintaining current service levels may require additional appropriations of state funds.

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IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

⁹ §1130(a)(2) and (d)(2) of the Social Security Act.

¹⁰ See H.R. 5456/S. 3065. H.R. 5456 by Representative Buchanan (R-FL) was introduced in the House of Representatives on June 10, 2016 and its companion was introduced in the Senate on June 16, 2016 by Senators Hatch (R-UT) and Wyden (D-OR). The bills were reintroduced in 2017.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

None.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.