



Family First Prevention Services Act

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safe children | strong families | supportive communities

Family First Prevention Services Act

- Passed and signed into law (P.L. 115-123) in February 2018 as part of the Bipartisan Budget Act.
 - New option for States and Tribes to claim Title IV-E funds for prevention activities.
 - New policy to ensure appropriate placements for children in foster care.
 - New funding and reauthorization of existing funding for child welfare programs, including prevention funding, court funding, and specific substance abuse prevention grants.

I

NEW FUNDING FOR PREVENTION ACTIVITIES



New Funding for Prevention Activities

Allows State and Tribes to receive open-ended Title IV-E funding for evidence-based prevention services

New Funding for Prevention Activities

WHO?

1. Children at imminent risk of placement in foster care, or
2. Pregnant and parenting youth in foster care; and
3. Their parents or kinship caregivers are also eligible.

New Funding for Prevention Activities

- * NO income test for eligibility.

- * Defines children who are “candidates for foster care” as those who can remain safely at home or in a kinship placement with receipt of services or programs.

(Think safety plan.)

(“Child Safety: A Guide for Judges and Lawyers” by Therese Lund and Jennifer Renne (ABA))

New Funding for Prevention Activities

WHAT

Allows the following evidence-based services to be reimbursed

***Mental health prevention and treatment services** provided by a qualified clinician; not more than 12 months.

***Substance abuse prevention and treatment services** provided by a qualified clinician; for not than 12 months.

***In-home parent skill-based programs**, including parenting skills training, parent education & individual/family counseling; for not more than 12 months.

No limit on how many times a child and family receive prevention services.

New Funding for Prevention Activities

REQUIRES prevention services and programs to be **promising, supported, or well-supported** to qualify for reimbursement.

- Requires HHS Secretary to issue guidance to states regarding practice criteria required for services or programs by October 1, 2018. The guidance must include a pre-approved list of services and programs that satisfy the requirements.

- A Federal Register Notice was published on June 22, 2018 requesting comments on decision related to developing a clearinghouse on evidence-based practices.

New Funding for Prevention Activities

WHEN?

Title IV-E reimbursement for eligible prevention services begins on October 1, 2019.

This is an option for states and tribes, tribal organizations and tribal consortiums.

New Funding for Prevention Activities

HOW?

*Requires a state to submit a prevention and services program plan as part of the State's Title IV-E plan.

*Tribes with an approved Title IV-E plan may choose to provide prevention services programs.

-Secretary HHS is required to specify the requirement and prevention performance measures for tribes. (Must be consistent with states as practicable, but must permit provision of services and programs adapted to the culture and context of the tribal communities served.)

New Funding for Prevention Activities

- Reimbursement rates for prevention activities are:
 - Beginning October 1, 2019 – Sept. 30, 2026, 50%.
 - Beginning Oct. 1, 2026, federal Medicaid rate (FMAP) (for AZ approx. 63%)
 - At least 50% of spending in every fiscal year must be for well-supported practices.

New Funding for Prevention Activities

- *States who opt to administer a prevention program also may claim Title IV-E reimbursement for administrative costs at 50% and training costs at 50%
- *New federal funds for prevention services are intended to augment, not supplant, state funding for prevention services.
- *States will have to maintain spending at FY2014 level for same prevention services for candidates for foster care.

New Funding for Prevention Activities

WHY?

We know to support child well-being, it is important to intervene as early as possible.

We know that the act of removing children from their families and homes creates emotional distress and trauma that should be avoided whenever possible.

We know some children can be better served by remaining safely at home while their parents receive community services and support they need.

II

ENSURING APPROPRIATE PLACEMENTS IN FOSTER CARE



Ensuring Appropriate Placement

The following are currently allowed under Title IV-E and will continue under FFPSA

- *Facility for pregnant and parenting youth.
- *Supervised independent living for those 18 and older
- *Specialized placement for youngsters who are victims or at-risk of becoming sex trafficking victims.
- *Foster Family Home (defined) – no more than 6 children in foster care, with some exceptions.

Ensuring Appropriate Placement

Beginning October 1, 2018, Title IV-E foster care maintenance payments can be made on behalf of a child in foster care who is placed with their parent in a licensed residential family-based treatment facility for up to 12 months.

No income test applies, unlike other Title IV-E foster care placement.

Ensuring Appropriate Placement

Beginning as early as October 1, 2019, after 2 weeks in care, Title IV-E federal support will be available for Title IV-E eligible youngsters with serious emotional or behavioral disorders or disturbances placed in a **Qualified Residential Treatment Program (QRTP)**.

What is a QRTP?

- *Has trauma informed treatment model to meet the needs of the child, and has registered or licensed nursing and other licensed clinical staff available 24/7, consistent with the QRTP's treatment model
- *Facilitates outreach and engagement of the child's family in the child's treatment plan.
- *Provides discharge planning and family-based aftercare supports for at least 6 months
- *Licensed and accredited

QRTP

There are no time limits on how long a child can remain in a QRTP as long as the placement continues to meet her/his needs as determined in assessment.

QRTP and the juvenile courts

Following a child's placement in a QRTP:

Assessment

- By a “qualified individual” (as defined-trained professional or licensed clinician not a state employee) within 30 days
- Must assess child's strengths and needs using age-appropriate evidence-based, validated functional assessment tool.
- Must be conducted with family and permanency team.

Juvenile Court review and approval/disapproval within 60 days based on whether the placement is the most effective and appropriate level of care in the least restrictive environment consistent with the short- and long-term goals for the child.

QRTP and the juvenile courts

For children who remain in a QRTP, the agency must submit evidence to the court at each status review and permanency hearing that:

- The child's needs continue to be best met by the QRTP and the placement is consistent with the child's goals
- Documents the specific treatment or service needs to be met by the QRTP and the expected duration of the needs
- Documents the agency's efforts to prepare the child for a less restrictive placement or return home

Ensuring Appropriate Placement

States have the option to delay this provision for up to 2 years. However, delay in implementation requires delay in prevention provisions.

FFPSA provides \$8M in FY 2018 for grants to states and tribes to support recruitment and retention of high quality foster families.

III

SELECT ADDITIONAL CHANGES TO PROMOTE SAFETY, PERMANENCY AND WELL-BEING



Promoting Safety, Permanency and Well-Being

- *Requires the development of a statewide plan to prevent child abuse and neglect fatalities
- *Provide Title IV-E support for evidence based kinship navigator programs at 50% on Oct. 1, 2018
- *Modernizes and reauthorized the John F. Chaffee Foster Care Independence Program until FY2021

Promoting Safety, Permanency and Well-Being

Requires HHS to identify model foster parent licensing standards; and states will have to identify how they will implement.

Provide \$5M in new grants to states to expand the development of electronic system to expedite ICPC of children across state lines (by 2026).

Promoting Safety, Permanency, and Well-Being

*Reauthorized the Adoption and Legal Guardianship Incentive Programs thru FY 2022

*Reauthorized Title IV-B programs and services until FY 2021

- Stephanie Tubbs Jones Child Welfare Services Program, including funding for monthly caseworker visits

- Promoting Safe and Stable Families Program

- Court Improvement Program

- Regional Partnership Grants to increase the well-being of and to improve permanency outcome for kids affected by heroin, opioids or other substances.

Food for Thought-

FFPSA and the juvenile courts

An opportunity for judicial leadership



FFPSA and the Courts

- * Judges, lawyers, court staff, and court volunteers will be trained in FFPSA.
- * Clear established removal standards. Judge is aware of all available prevention services and establishes his/her standards and expectations regarding what Reasonable Efforts would entail.
- * Judge regularly make explicit Reasonable Efforts findings, will explicitly pronounce specific reasonable efforts needed, as well as making written specific fact findings.

FFPSA and the Courts

For decades, Courts have been required to make Reasonable Efforts (RE) findings:

- RE findings required since the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272)

- Reaffirmed and expanded in the 1997 Adoption and Safe Families Act (P.L. 105-77)

- Unless the court finds RE made by the agency, the case is not eligible for federal reimbursement under Title IV-E.

FFPSA and the Courts

Federal Law –

Whether “reasonable efforts have been made to prevent or eliminate the need for removal of the child” from his/her family? (42 U.S.C. s 672(a)(1); 45 C.F.R. s 1356.21(b)(1))

and later,

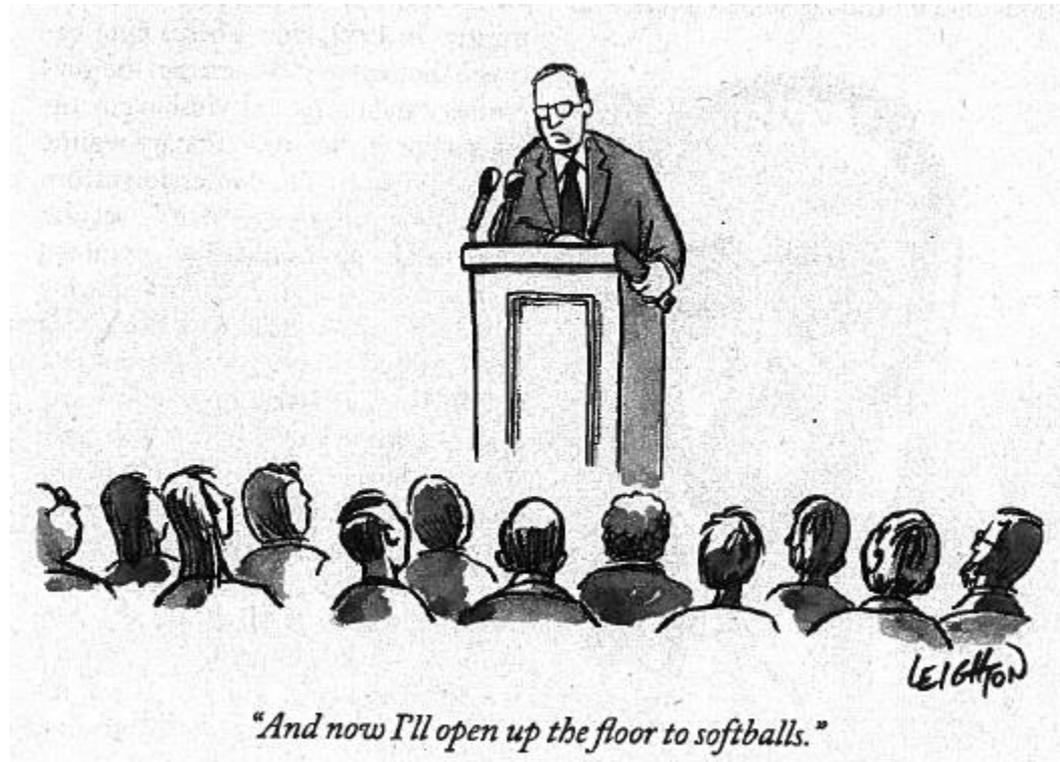
Whether the agency is making reasonable efforts to effect the safe reunification of the child and family? (id.)

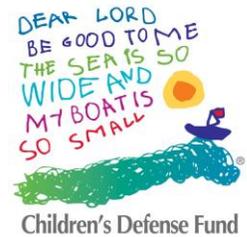
(Enhanced Resource Guidelines: Improving Court Practice in Child Abuse and Neglect Cases, pp 131-37 (NCJFCJ).)

FFPSA and the Courts

Families will be embraced throughout process Birth parents, relative caregivers and supports, and foster parents will be included and embraced throughout the process where appropriate. Youth with a goal of APPLA will have a case plan to reengage with family, including 15 month reunification services.

Discussions and Questions





The Family First Prevention Services Act

Historic Reforms to the Child Welfare System will Improve Outcomes for Vulnerable Children

February 2018

On February 9, 2018, President Trump signed into law the landmark bipartisan Family First Prevention Services Act, as part of Division E in the Bipartisan Budget Act of 2018 (H.R. 1892). Family First includes long-overdue historic reforms to help keep children safely with their families and avoid the traumatic experience of entering foster care, emphasizes the importance of children growing up in families and helps ensure children are placed in the least restrictive, most family-like setting appropriate to their special needs when foster care is needed. Family First builds on the original version of the bill passed in the House of Representatives in June 2016 (H.R.5456).

SUBTITLE A. INVESTING IN PREVENTION AND FAMILY SERVICES

Part 1 – Prevention Activities Under Title IV-E

(Sections 50711, 50712, 50713)

Beginning October 1, 2019, states will have the option to use Title IV-E funds for prevention services for eligible children at risk of foster care placement and their families.

Eligibility for Prevention and Family Services and Programs (Sec. 50711):

- Children who are “candidates” for foster care, meaning they are identified in a prevention plan as being at imminent risk of entering care but can safely remain at home or in a kinship placement if provided services that prevent entry into foster care. This includes children whose adoption or guardianship arrangement is at risk of disruption or dissolution that would result in entry into foster care.
- Children in foster care who are pregnant or parenting.
- Parents or kin caregivers of candidates for foster care where services are needed to prevent the child’s entry into care or directly relate to the child’s safety, permanence or well-being.

Duration of Prevention and Family Services and Programs (Sec. 50711):

- Title IV-E dollars can only be used to provide services for a maximum of 12 months beginning on the date the child is identified in a prevention plan as a candidate for foster care or a pregnant and parenting foster youth in need of services. Children and families can receive these services more than once if they are later identified again as a candidate for foster care.

No Title IV-E Income Eligibility Requirement for Prevention and Family Services and Programs (Sec. 50711):

- Eligible children, youth, parents and kin caregivers are eligible for prevention services and programs regardless of whether they meet the AFDC income-eligibility requirements required for Title IV-E reimbursement.

Types of Prevention and Family Services and Programs (Sec. 50711):

- There are several types of services and programs eligible for Title IV-E reimbursement for not more than a 12-month period:

- Mental health and substance abuse prevention and treatment services provided by a qualified clinician.
- In-home parent skill-based programs, which include parenting skills training, parent education and individual and family counseling.
- Services and programs can be funded with federal dollars for not more than a 12-month period that begins on either the date on which a child is identified in a prevention plan as a candidate for foster care or as a pregnant or parenting youth in foster care in need of prevention and family services and programs.
- The services and programs must be trauma-informed.
- The services and programs must meet certain evidence-based requirements that follow promising, supported, or well-supported practices as defined in the bill. (Modeled from evidence-based criteria similar to that used by the California Evidence-Based Clearinghouse for Child Welfare.)
- The Secretary of the Department of Health and Human Services (the Secretary) will release guidance no later than October 1, 2018 on the practice criteria required for these services or programs and a “pre-approved” list of services and programs that meet these requirements. This Secretarial guidance will be updated as often as necessary.

Prevention Plan Requirements (Sec. 50711):

- To receive the prevention services and programs, each candidate for foster care and pregnant or parenting youth must have a written prevention plan that specifies the needed services for or on behalf of the child. The services or programs identified in the prevention plan need to be trauma-informed.
 - Candidates for foster care must have a written prevention plan that identifies the strategy for the child to remain safely out of foster care and the list of services or programs needed for the child or on behalf of the child.
 - Pregnant or parenting youth in foster care must have a written prevention plan that includes their case plan, list of services or programs needed to ensure that a youth is prepared or able to be a parent, and a foster care prevention strategy for any child born to that youth.

State Plan Requirement (Sec. 50711):

- States that choose to take the option to use Title IV-E funds for prevention will need to include in their state child welfare plan a prevention services and programs plan component that details how the state will monitor and oversee the safety of children who receive Title IV-E prevention services or programs, including through periodic risk assessments for each child receiving them; describe the services and programs the state intends to provide and whether they are promising, supported, or well-supported; describe the outcomes the state intends to achieve; discuss how the state will evaluate its provision of each prevention service or program offered; describe how it will continuously monitor its provision of these prevention services and programs and use the information learned to refine and improve its practices; and describe how child welfare workers will be trained and supported to effectively carry out Title IV-E prevention services and supports.
- The prevention services and programs plan component must be updated every five-year period for which the plan component is in operation. The state plan must be approved by HHS to draw down the new federal prevention funds.

Federal Reimbursement for Prevention Services and Programs (Sec. 50711):

- Federal financial participation (FFP) for the prevention services and programs will be phased in to allow for careful analysis of the progress being made in the delivery and outcomes of the services.

- Beginning October 1, 2019 and before October 1, 2026, the FFP available to states will be 50 percent for the prevention services and programs that are promising, supported, and well-supported practices.
- Beginning after September 30, 2026 the FFP will be the state's Federal Medical Assistance Percentage (FMAP) for the prevention services and programs that are promising, supported, and well-supported practices.
- At least 50 percent of the expenditures reimbursed by federal funds must be for prevention services and programs that meet the requirements for well-supported practices.
- States cannot receive federal reimbursement for a promising, supported, or well-supported practice unless their state plan includes a well-designed and rigorous evaluation strategy for that practice; however, HHS can waive this requirement for any well-supported practice if the evidence of its effectiveness is compelling and the state meets certain continuous quality improvement requirements.
- States will be allowed to use Title IV-E funds for training and the administrative costs associated with developing the necessary processes and procedures for these services (including expenditures for data collection and reporting), based on a 50 percent reimbursement rate. These service, training and administrative costs are "delinked" from the AFDC income eligibility requirement for Title IV-E.

Maintenance of Effort for Foster Care Prevention Expenditures (Sec. 50711):

- There is a maintenance of effort (MOE) requirement on "foster care prevention expenditures" to avoid states substituting their current state/local prevention dollars with the new Title IV-E funds.
 - States cannot spend less than they did on state foster care prevention expenditures in FY2014 (or at the option of a state where the child population in 2014 was less than 200,000, FY2015 or FY2016, whichever the states chooses) both for funds that are matched and for funds not matched by the federal government.
 - States will need to report to HHS on their state foster care prevention expenditures for FY2014 under TANF, Title IV-B, SSBG and other state programs. The MOE requirement does not apply to state spending on prevention under certain Title IV-E waivers. States will need to report these state expenditures every year to ensure compliance with the MOE. HHS will specify the prevention services and activities that should be counted under TANF, Title IV-B, SSBG and other programs.

Performance Measures and Data Collection on Prevention Services or Programs (Sec. 50711):

- States will need to collect and report the following data to the Secretary for each child receiving (or adult receiving on the child's behalf) prevention services or programs during the 12-month period beginning on the date when the child is identified in a prevention plan:
 - The specific services or programs provided and the total expenditure for each.
 - The duration of the services or program provided.
 - In the case of a candidate for foster care, the child's placement status at the beginning and end of the 12-months, and whether the child entered foster care within two years of being determined a candidate.
- Beginning in 2021, and annually thereafter, the Secretary will establish national prevention services measures on the following indicators based on the data reported by the states:
 - Percentage of candidates for foster care who do not enter foster care during the 12-month period when the prevention services or programs are provided (to them or on their behalf) and through the end of the succeeding 12-month period.
 - Per-child spending of the total amount of expenditures for the prevention services or programs (to or on behalf of the child).

- The Secretary will establish and annually update the prevention services measures based on the median state values for the 3 most recent years, and will take into account differences in state prices using the Bureau of Economic Analysis of the Department of Commerce or other such appropriate data. HHS will make available to the public each state's performance measures.

Eligibility for Indian Tribes, Tribal Organizations (Sec. 50711):

- Tribes with an approved Title IV-E plan have the option to use Title IV-E funds for prevention services and programs. HHS will specify the requirements applicable to tribes, which will be consistent with state requirements, to the extent possible, but allow for cultural adaptation that best fits the context of the tribal community.
- For each tribe, organization, or consortium that takes the option for prevention services and programs, HHS will establish specific performance measures on the prevention services, which will be consistent with the state performance measures, to the extent possible, but also take into consideration the factors unique to the tribe, organization or consortia.

Technical Assistance and Best Practices [Sec. 50711(d)]:

- HHS will provide technical assistance and best practices to states and tribes on the prevention services and programs, including how to plan and implement a well-designed and rigorous evaluation of promising, supported, or well-supported practices. HHS will evaluate research on promising, supported and well-supported practices and establish a clearinghouse of these practices and their outcomes. HHS may also collect data and conduct evaluations on the prevention services and programs to assess how these services are reducing the likelihood of foster care placement, increasing the use of kinship care placements, or improving child well-being.
- HHS must submit to the Senate Finance and the House Ways and Means Committees periodic reports on the prevention services and programs, which will also be made available to the public.
- There is \$1 million appropriated to HHS to carry out these provisions in FY2018 and each year afterwards.
- This requirement is effective upon enactment of the law.

Other (Sec. 50711):

- A child who is with a kin caregiver for more than six months and meets the Title IV-E eligibility requirements will continue to be eligible for Title IV-E foster care payments at the end of the 12 months.
- Services and programs provided to or on behalf of a child will not be counted against that individual as receipt of aid or assistance in regards to their eligibility for other programs.
- U.S. territories are eligible for the new Title IV-E prevention funding.

Federal Reimbursement for Children in Residential Family-based Substance Abuse Treatment with a Parent (Sec. 50712):

- States can get Title IV-E reimbursement for not more than 12 months for a child who has been placed with a parent in a licensed residential family-based treatment facility for substance abuse, regardless of whether the child meets the AFDC income-eligibility requirement for Title IV-E. Additional requirements include:
 - The child's case plan has to recommend this placement;
 - The substance abuse treatment facility must provide parenting skills training, parent education, and individual and family counseling; and
 - The treatment and related services must be trauma-informed.
- This requirement is effective on October 1, 2018.

Reimbursement for Evidence-Based Kinship Navigator Programs (Sec. 50713):

- States can receive Title IV-E reimbursement for up to 50 percent of the state’s expenditures on kinship navigator programs that meet the evidence-base requirements of promising, supported, or well-supported practices, without regard to whether those services were accessed on behalf of children who meet the AFDC income-eligibility requirements for Title IV-E.
- This requirement is effective on October 1, 2018.

Part II – Enhanced Support Under Title IV-B

(Sections 50721, 50722, 50723)

Changes to Use of Title IV-B Services for Family Reunification Services (Sec. 50721):

- Eliminates the current 15-month time-limit on the use of Title IV-B funds for family reunification services for children in foster care. However, clarifies that a child returning home also will now have access to 15-months of family reunification services beginning on the date the child returns home. Changes the name of the program from “Time-Limited Family Reunification Services” to “Family Reunification Services.”
- This requirement is effective on October 1, 2018.

Improving Interstate Placements (Sec. 50722):

- No later than October 1, 2027, states will need to use an electronic interstate case-processing system for exchanging data and documents to help expedite the interstate placement of children in foster care, adoption or guardianship. U.S. territories, Indian tribes, tribal organizations and tribal consortiums are exempt from this requirement.
- Provides funding authority (\$5 million for FY2018, with funds that remain available through FY2022) under Promoting Safe and Stable Families to help states develop electronic interstate case-processing systems. States will need to submit to HHS an application that details how the grant will support the state in connecting with the electronic system, including how the grant will help it reduce times to permanency, improve administrative processes and reduce costs in the foster care system, and ensure secure exchange of data and timely placement decisions, strategies for integrating programs and services across state lines. In providing funds, HHS shall prioritize states not yet connected with the electronic interstate case-processing system. Funds must be used to support a connection to the system or enhancing or expediting services provided under the system.
- Not later than one year after the final grant year, HHS will submit to Congress and make available to the public a report on how the system has changed the time it takes to complete interstate placements, how many cases were processed inside and outside the electronic system, state implementation progress, how the system affected other metrics related to child safety and well-being, and how the system affected administrative costs and caseworker time spent on interstate placements.
- HHS will work with the Secretariat for the Interstate Compact on the Placement of Children and the states in assessing how this system can be used to better serve and protect children that come to the attention of the child welfare system by connecting the system to other data systems. For example, how it can help children who have been identified as victims of sex trafficking or missing from foster care, or help expedite background check requirements in Title IV-B.

Improving the Regional Partnership Grants to Help Families Affected by Substance Abuse: (Sec. 50723)

- Amends the Regional Grant Partnership (RGP) in Title IV-B, Subpart 2, by specifying the various partners that need to be a part of the collaborative agreement (interstate, state, or intrastate), including:

- The mandatory partners for all partnership grants, which must include the state child welfare agency and the state agency responsible for administering the substance abuse prevention and treatment block grant
- The mandatory partners for partnership grants that serve children in out-of-home care, which must include the appropriate courts that work with these families.
- The optional partners, which may include Indian tribes, tribal consortium, nonprofit and for-profit child welfare service providers, community health and mental health providers, law enforcement, school personnel, tribal child welfare agencies and any others related to provision of services under the partnership.
- Tribes entering into a RGP may (but are not required to) include the state child welfare agency as a partner, but are not allowed to partner only with tribal child welfare agencies. If the tribe is working in a partnership grant that serves children in out-of-home care they may include a tribal court in lieu of other judicial partners.
- Extends RGPs for an additional five years (FY2017 – FY2021). The amount per grant per fiscal year can be no less than \$250,000 and no more than \$1,000,000.
- RPG grants will be awarded in two phases: first, a planning phase (not to exceed two years, and not to exceed \$250,000 or the total anticipated funding for the implementation phase); second, an implementation phase.
- Payments won't be made until the Secretary determines that sufficient progress has been made in meeting the goals of the grant and that the members of the partnership are coordinating together.
- Amends the RPG application requirements, including:
 - Modifying the goals for RPGs, including the addition of goals that improve substance abuse treatment outcomes for parents and families, as well as children, and focus on safe, permanent caregiving relationships for the children, an increasing reunification rate, and facilitate the implementation, delivery and effectiveness of the new prevention services in Title IV-E.
 - Adding a description for a sustainability plan at the end of the grant.
 - Adding information about how the proposed activities are consistent with current research or evaluations on effective practices
- Amends the performance indicators to reflect child safety and parent well-being, and try to make the indicators consistent with the outcomes measures for the new Title IV-E prevention services.
- Modifies the reporting requirements to include semi-annual reports to HHS on the services provided, progress made in achieving goals, and number of children and families receiving services.
- This is effective on October 1, 2018.

Part III – Miscellaneous

(Sections 50731, 50732, 50733)

Improving Licensing Standards for Relative Foster Family Homes (Sec. 50731):

- HHS will identify reputable model licensing standards for foster family homes not later than October 1, 2018, and no later than April 1, 2019 states will need to submit to HHS:
 - Whether their licensing standards are in accord with HHS' model standards, and if not, why they deviate and a description of why that model standard is not appropriate for the state.
 - Whether they waive certain licensing standards for relative foster family homes, and if so, a description of the standards they most commonly waive. If the state does not waive standards for relatives, they must describe the reason for not doing so.
 - If the state waives licensing standards for relatives, a description of how caseworkers are trained on this waiver and whether the state has developed a process or tools to help

caseworkers in waiving the non-safety standards to help place children with relatives more quickly.

- A description of how the state is improving caseworker training or the process on licensing standards.

Developing Statewide Plans to Prevent Child Abuse and Neglect Fatalities (Sec. 50732):

- Requires states to document in their state plan for the Title IV-B Child Welfare Services program the steps they are taking to track and prevent child maltreatment fatalities, including:
 - How the state is compiling complete and accurate information on these fatalities, including information on deaths from relevant organizations (i.e. State vital statistics department, child death review teams, law enforcement agencies, offices of medical examiners or coroners).
 - How the state is developing and implementing a comprehensive, statewide plan to prevent child maltreatment fatalities that engages public and private agency partners, including those in public health, law enforcement and the courts.
- This requirement is effective on October 1, 2018.

Modernizing the Title and Purpose of Title IV-E (Sec. 50733):

- Changes the name of the Title IV-E program from “Part E—Federal Payments for Foster Care and Adoption Assistance” to “Part E—Federal Payments for Foster Care, Prevention, and Permanency.” The purpose of Title IV-E is also amended to reflect the new use of federal funds for prevention services and programs.
- This requirement is effective immediately upon enactment.

PART IV. ENSURING THE NECESSITY OF A PLACEMENT THAT IS NOT IN A FOSTER FAMILY HOME

(Sections 50741, 50742, 50743, 50744, 50745, 50746)

Beginning October 1, 2019, states must take steps to safely reduce the inappropriate use of congregate/group care for children. States have the option delay the effective date for up to two years; however any state that does so must also postpone seeking Title IV-E prevention investments for the same period of time.

Restrictions on Federal Reimbursement for Placements Other than Foster Family Homes (Sec. 50741):

- Beginning with the third week of a child entering foster care, states will only be eligible for Title IV-E foster care payments on behalf of a child in the following settings:
 - A foster family home of an individual or family that is licensed or approved by the state, and is capable of adhering to the reasonable and prudent parent standard, provides 24 hour care for children placed away from their family, and provides care to six or fewer children in foster care (exceptions to this limit can be made to accommodate parenting youth in foster care to remain with their child, keep siblings together, keep children with meaningful relationships with the family, and care for children with severe disabilities).
 - A child-care institution (defined as a licensed private or public child-care institution with no more than 25 children) that is one of the following settings:
 - A Qualified Residential Treatment Program (QRTP)
 - A setting specializing in providing prenatal, post-partum, or parenting supports for youth.
 - A supervised setting for youth ages 18 and older who are living independently.

- A setting providing high-quality residential care and supportive services to children and youth who have been found to be, or are at risk of becoming, sex trafficking victims.

(Child-care institutions do not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children determined to be delinquent.)

- Children who are placed with a parent in a licensed residential family-based substance abuse treatment facility for up to 12 months. (As reflected in Sec. 50712 mentioned above.)
- Restriction on Title IV-E payments does not prohibit payments for administrative expenditures incurred on behalf of the child in a child care institution.

Qualified Residential Treatment Programs (QRTP) (Sec. 50741):

- A Qualified Residential Treatment Programs (QRTP), is defined as a program that:
 - Has a trauma-informed treatment model designed to address the needs, and clinical needs as appropriate, of children with serious emotional or behavioral disorders or disturbances, and can implement the necessary treatment identified in the child’s assessment. (See the section below for more information on the assessment.)
 - Has registered or licensed nursing staff and other licensed clinical staff who can provide care, who are on-site consistent with the treatment model, and available 24 hours and 7 days a week. The QRTP does not need to have a direct employee/employer relationship with required nursing and behavioral staff.
 - Facilitates family participation in child’s treatment program (if in child’s best interest)
 - Facilitates family outreach, documents how this outreach is made, and maintains contact information for any known biological family and fictive kin of the child.
 - Documents how the child’s family is integrated into the child’s treatment, including post-discharge, and how sibling connections are maintained.
 - Provides discharge planning and family-based aftercare supports for at least 6 months post-discharge.
 - The program is licensed and nationally accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF), the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), the Council on Accreditation, or others approved by the Secretary.

Assessment to Determine Appropriateness of Placement in a QRTP (Sec. 50742):

- Within 30 days of a child being placed in a QRTP setting, a qualified individual must assess the child’s strengths and needs using an age-appropriate, evidence-based, validated, functional assessment tool to determine if the child’s needs can be met with family members or in a foster family home, or in one of the other approved settings (i.e. facilities for pregnant or parenting youth or independent living facilities) consistent with the short- and long-term goals of the child and their permanency plan. HHS will release guidance on valid assessment tools. The qualified individual will also need to develop a list of child-specific short- and long-term mental and behavioral health goals.
 - The assessment must be done by a “qualified individual”, who is a trained professional or licensed clinician who is not a state employee or affiliated with any placement setting in the state. However, this requirement may be waived by the Secretary upon request of a state certifying that trained professional or licensed clinician can maintain objectivity in the assessment process.
 - If the assessment is not completed in the first 30 days of the child’s placement in a QRTP the state can no longer receive federal reimbursement for foster care maintenance payments for that child while they are in that placement.

- The qualified individual must conduct the assessment in conjunction with the child’s family and permanency team, which may include parents, relatives, fictive kin, appropriate professionals (teachers, medical and mental health providers, clergy or others familiar with the child). If the youth is age 14 or older she can also select and bring with her two members of the permanency planning team, as established in the Preventing Sex Trafficking and Strengthening Families Act of 2014.
 - The state will need to document in the child’s case plan their efforts to identify and include a family and permanency team for the child, contact information for the team (including other family and fictive kin who aren’t in the team), evidence that meetings were held at a time convenient for the family and permanency team, evidence that the child’s parent provided input if reunification is the permanency goal, evidence that the assessment was made in conjunction with the team, the placement preference of the team that acknowledges the importance of keeping siblings together, and if the team’s placement preference is different than that of the qualified individual the reason why the recommendations are different.

Steps Taken After a Determination is Made that a Child Should Not be Placed in a QRTP (Sec. 50741):

- If it is determined by an assessment of court order that a QRTP placement is not appropriate for a child, then the state has an additional 30 days from the time that determination is made to transition the child down to another placement or step the child up to a facility that can better address the child’s needs. States will be reimbursed at the FFP during this 30 day period, but states will have to pay the full cost for the child beyond those 30 days if the child remains in a setting that is not appropriate for addressing the child’s needs. These funds appear to be able to assist with the transition.

Steps Taken After a Determination is Made that a Child Should Not be Placed in a Foster Family Home (Sec. 50742):

- If it is determined that a QRTP placement is appropriate for a child, the qualified individual needs to document in writing why the child’s needs cannot be met by her family or in a foster family (shortage of foster family homes cannot be an acceptable reason), why a QRTP will provide the most effective and appropriate level of care and in the least restrictive environment, and how it is consistent with the short- and long-term goals of the child.
- Within 60 days of a placement in QRTP the court must review the assessment and approve or disapprove of the QRTP placement.
- For children who remain in a QRTP, at every permanency hearing the state agency will need to submit evidence:
 - Demonstrating the ongoing assessment that the child’s needs continue to be best met in a QRTP and it is consistent with the child’s short- and long-term goals.
 - Documenting the specific treatment or service needs that will be met by the QRTP and the length of time the child is expected to need those treatment and services.
 - Documenting the efforts made to prepare the child to exit care or to be placed in a foster family home.
- For children in a QRTP for 12 consecutive or 18 nonconsecutive months (or for more than 6 consecutive months for children under age 13) the state will need to submit to HHS the most recent evidence and documentation supporting this placement with a signed approval by the head of the state.

Protocols to Prevent Inappropriate Diagnoses (Sec. 50743):

- States will need to establish as part of their health care services oversight and coordination plan procedures and protocols to ensure children in foster care are not being inappropriately diagnosed

with mental illnesses, disorders or disabilities that may result in the child not being placed with a foster family home. This is effective as if enacted January 1, 2018.

- HHS will evaluate these procedures and protocols and the extent to which states comply and enforce them, identify best practices, and submit a report on the evaluations to Congress not later than January 1, 2020.

Training State Judges, Attorneys and Other Legal Personnel about New Restrictions (Sec. 50741):

- The Court Improvement Program in Title IV-B, Subpart 2, is amended to include training to judges, attorneys, and other legal personnel in child welfare about the new changes made to federal policy and reimbursement for children placed in settings that are not foster family homes.
- This is effective as if enacted January 1, 2018.

Assuring Changes in Federal Reimbursement Do Not Impact the Juvenile Justice System (Sec. 50741):

- States will need to include in their state plan a certification assuring that the state will not enact or advance policies or practices that will result in a significant increase in number of youth in the juvenile justice system because of the new restrictions on federal reimbursement for children not placed in a foster family home. This provision is effective on October 1, 2019.
- The GAO will do a study evaluating the impact on the juvenile justice system as a result of the new restrictions on federal reimbursement for children not placed in a foster family home. Specifically, the GAO will evaluate the extent to which children in foster care who are in the juvenile justice system and placed in a juvenile justice facility are there as a result of the lack of available congregate care placements. GAO must submit this report to Congress no later than December 1, 2025.

Criminal Records Checks and Checks of Child Abuse and Neglect Registries for Adults Working in Child-care Institutions and Other Group Care Settings (Sec. 50745):

- States are required to have procedures for background checks to be carried out on any adult working in group care settings where foster children are placed. This is effective on October 1, 2018.

Exceptions for States with a Title IV-E Waiver (Sec. 50746):

- States that have an active Title IV-E Demonstration Waiver when the changes in Title IV-E for group care go into effect will not be held to the changes if they are inconsistent with the terms of their waiver until the waiver expires.

Data and Reports on Children Placed in Settings Other than Foster Family Homes (Sec. 50744):

- States will need to collect data and report on the following data items for children in child-care institutions or other settings that are not foster family homes:
 - The type of placement setting (i.e. shelter care, group home, residential treatment facility, hospital or institution, setting for pregnant or parenting youth, etc.)
 - The number of children in the setting, and the age, race/ethnicity and gender of each child in the setting.
 - For each child, the length of stay in that setting, whether it was the child's first placement, and if not, the number of previous placements, and whether or not the child has special needs.
 - The extent of specialized education, treatment, counseling, or other services provided in that setting.
- States will also have to report on the number and ages of children in these placements that have a permanency goal of Another Planned Permanent Living Arrangement (APPLA).
- This is effective as if enacted January 1, 2018, and will serve as a useful baseline as the new requirements for group care are implemented.

PART V. CONTINUING SUPPORT FOR CHILD AND FAMILY SERVICES

(Sections 50751, 50752, 50753)

Supporting and Retaining Foster Families for Children (Sec. 50751):

- Amends the definition of “Family Support Services” under Promoting Safe and Stable Families in Title IV-B, Subpart 2, to include community-based services that are designed to support and retain foster families so they can provide quality family-based settings for children in foster care. The current definition focuses primarily on services for the child’s family, and this change will allow for additional support for foster families.
- Creates under Title IV-B, Subpart 2, competitive grants (\$8 million in FY2018 that remain available through FY2022) to states and tribes to support the recruitment and retention of high-quality foster families to help place more children in foster family homes. The grants will be focused on states and tribes that have the highest percentage of children in non-family settings.

Extending Child and Family Services Programs Under Title IV-B (Sec. 50752):

- Extends for five years (FY2017 through FY2021) the following programs:
 - The Stephanie Tubbs Jones Child Welfare Services Program (Title IV-B, Subpart 1).
 - The Promoting Safe and Stable Families Program (Title IV-B, Subpart 2) is extended at the current mandatory level of \$345 million a year. Discretionary funding under Promoting Safe and Stable Families is also extended for five years, as well as the funding reservations for supporting monthly caseworker visits, Regional Partnership Grants, and funding for state Court Improvement Program Grants (mandatory funding).

Improving the John H. Chafee Foster Care Independence Program (Sec. 50753):

- Extends to age 23 the financial, housing, counseling, employment, education, and other appropriate supports and services to former foster care youth under the John H. Chafee Foster Care Independence Program (Chafee). The supports and services under Chafee are currently only available to youth between ages 18 and 21.
- The extension of Chafee services to age 23 only applies to states that have taken the option to extend foster care to youth to age 21, or states that HHS determines are using state or other funds to provide services and assistance to youth who have aged out that are comparable to those youth would receive if the state had taken the option to extend care.
- If a state has unspent Chafee funds remaining (i.e. at the end of the two-year period that funds are available to them), HHS can make those available to redistribute to other states that apply for additional funds, as long as HHS determines that those states will use the funds for the purposes stated. The amount redistributed to the states will be based on the “state foster care ratio” (i.e. the number of children in foster care in one state compared to the overall number of children in foster care nationally). Tribes can also participate.
- Extends to age 26 eligibility for Education and Training Vouchers under Chafee, which are currently only available to youth up to age 23, and clarifies that higher education vouchers are also available to youth who are at least 14-years old. Youth cannot participate in the voucher program for more than 5 years (whether or not consecutive).
- Changes the name of the program from the “John H. Chafee Foster Care Independence Program” to the “John H. Chafee Foster Care Program for Successful Transition to Adulthood.” Also makes several language changes throughout Chafee, including clarifying that these services can start for youth at age 14.
- Not later than October 1, 2019, HHS must submit to the House Ways and Means and Senate Finance Committees a report on the National Youth in Transition Database (NYTD) and other

relevant databases that track outcomes of youth who aged out of care or who exited care to adoption or kinship guardianship, including:

- Comparing the reasons for entering foster care and the foster care experience for 17-year-olds (i.e. length of stay, number of placements, case goal, discharge reason) to children who left care before turning 17.
- Characteristics of youth ages 19 and 21 who report poor outcomes to NYTD.
- Benchmarks for determining poor outcomes for youth who remain in care or exit care, and plans the Executive branch will take to use those benchmarks in evaluating child welfare agency performance in providing services to youth transitioning from care.
- Analysis of association between placement type, number of placements, time in care, and other factors related to outcomes at ages 19 and 21.
- Analysis of outcomes for youth ages 19 and 21 who were formerly in care compared to 19 and 21 year-olds still in care.
- Ensures that youth who age out of foster care are provided official documentation that proves they were previously in foster care. This information will be critical to youth who aged out who experience challenges accessing Medicaid to age 26, which they are now entitled to through the Affordable Care Act.

PART VI. CONTINUING INCENTIVES TO STATES TO PROMOTE ADOPTION AND LEGAL GUARDIANSHIP

(Section 50761)

Reauthorizing the Adoption and Legal Guardianship Incentive Program (Sec. 50761):

- Reauthorizes the Adoption and Legal Guardianship Incentive Payment program, which was set to expire in FY2016, for an additional five years (FY2017 through FY2021). The incentive program allows states to receive award payments based on improvements the state makes in increasing exits from foster care to adoption or guardianship.
- This takes effect as if enacted on October 1, 2017.

PART VII. TECHNICAL CORRECTIONS

(Sections 50771, 50772)

Changes to Data Exchange Standards to Improve Program Coordination (Sec. 50771):

- HHS, in consultation with an interagency workgroup, will designate data exchange standards around the information shared between different state agencies, including federal reporting and data exchange requirements.
- Includes a number of data exchange standard requirements, such as incorporating widely-accepted, computer-readable formats; the capacity to continually be upgraded; and to be implemented in a way that is cost-effective, efficient and effective.
- Two years after enactment HHS will issue a proposed rule that identifies federally required data exchanges; includes specification and timing of exchanges; addresses factors used to determine whether and when to standardize data exchanges; and specifies state implementation options and future milestones.

Changes to State Requirement to Address the Developmental Needs of Young Children (Sec. 50772):

- Amends the state plan requirement under Title IV-B, Subpart 1 to describe activities to reduce the length of time to permanency for children under the age of 5 and the activities the state undertakes

to address the developmental needs of all vulnerable children under age 5 who receive services until Title IV-B or Title IV-E.

PART VIII. ENSURING STATES REINVEST SAVINGS RESULTING FROM INCREASES IN ADOPTION ASSISTANCE

(Sections 50781, 50782)

Delay of Adoption Assistance Phase-in (Sec. 50781):

- Temporarily suspends, from January 1, 2018 to June 30, 2024, the increased federal reimbursement under Title IV-E Adoption Assistance for certain children adopted under age two. The Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-135) began to “de-link” a child’s eligibility for federal Title IV-E Adoption Assistance from the outdated AFDC program by creating a 8-year phase-out of the de-link, beginning in 2010 for youth ages 16 and older, and going down two years of age ever year until 2018 when all children with special needs who are adopted will be eligible for federal reimbursement. All children with special needs will be eligible for Title IV-E Adoption Assistance on July 1, 2024.
- In the interim, children with special needs under 2 years of age will continue to be eligible for Title IV-E Adoption Assistance if they meet the existing Title IV-E eligibility requirements or are eligible for state-funded Adoption Assistance payments.
- This is effective as if enacted January 1, 2018.

GAO Study on Savings Resulting from the Increase in Adoption Assistance (Sec. 50782):

- Requires the Government Accountability Office (GAO) to review states’ compliance with the various requirements of the adoption assistance federal reimbursement phase-in, specifically the:
 - Requirement that state savings generated from the phase-in are being used to provide services to adopted children and their families.
 - Requirement that the state will spend no less than 30 percent of the savings generated by the phase-in on post-adoption services, post-guardianship services, and services to support and sustain positive permanent outcomes, and that at least two-thirds of that 30 percent requirement be spent on post-adoption and post-guardianship services.
- The GAO must submit the findings of this study in a report to the Senate Finance and House Ways and Means Committees and HHS.

**The provisions in Parts I-III that are effective on October 1, 2018, and the provisions in Part IV that are effective as if enacted in January 1, 2018, if HHS determines that a state needs to enact legislation (other than appropriations) to bring its Title IV-E or Title IV-B plans into compliance with a requirement(s), the state is permitted to have additional time to do so. Specifically, the state would have until the first day of the first calendar quarter that occurs after the close of the first regular state legislative session that begins after the enactment of this act.*

Family First Prevention Services Act - Timeline for Key Provisions

The Family First Prevention Services Act was passed and signed into law (P.L. 115-123) as part of the Bipartisan Budget Act on February 9, 2018. This document outlines the timeline of requirements by year and by state, tribal and federal responsibilities as included in the legislation. While the legislation identifies implementation dates in both calendar and federal fiscal years, this document lists the requirements in the calendar year in which they are to be implemented. Many provisions allow for a transition period if state legislation is required. The bill permits the Secretary of the U.S. Department of Health and Human Services (HHS) to provide additional time for tribes to comply if deemed necessary.

Effective as if Enacted on January 1, 2018

FEDERAL

- Extends authorization for funding for the Court Improvement Program in Title IV-B, Subpart 2, from FY2017 through FY2021. (Sec. 50753)
- Delays an expansion of eligibility for Title IV-E adoption assistance for children under age 2. (Sec. 50781)

STATE

- State Title IV-E plans must include the procedures and protocols the state has established to ensure that children in foster care placements will not be inappropriately diagnosed with mental illness, other emotional or behavioral disorders, medically fragile conditions, or developmental disabilities, and placed in settings that are not foster family homes as a result of the inappropriate diagnoses. Requires HHS to conduct an evaluation of the procedures and protocols established by states and report to Congress. (Sec. 50743)
- States will need to collect and report data and information about children in non-foster family home settings. Specific data measures are listed. (Sec. 50744).

Effective Upon Date of Enactment, February 9, 2018

FEDERAL

- Reauthorizes Title IV-B programs and services from FY2017-FY2021, including the Promoting Safe and Stable Families Program, Court Improvement Program, Regional Partnership Grants, the Stephanie Tubbs Jones Child Welfare Services Program, and funding for caseworker visits. (Sec. 50752)
- Reauthorizes the Adoption and Legal Guardianship Incentive program from FY2016 through FY2021. (Sec. 50761)

- Reauthorizes the John D. Chafee Foster Care Independence Program from FY2017-FY2021. Makes changes to the program to emphasize more successful transitions to adulthood, including allowing states to provide services to youth up to age 23 who aged out of foster care and allowing Education and Training Vouchers to be used in nonconsecutive years and up to age 26. (Sec. 50753)
- Requires the Secretary of HHS to provide technical assistance regarding the provision of prevention services and programs and disseminate best practices to states and tribes, including how to plan and implement well-designed and rigorous evaluations. (Sec. 50711)
- Requires the Secretary of HHS, directly or through grants, contracts or interagency agreement, to evaluate research of practices and establish a clearinghouse of promising, supported, and well-supported practices. (Sec. 50711)
- Requires the Secretary of HHS to provide periodic reports on the provisions of foster care prevention services and programs to Congress. (Sec. 50711)
 - \$1 million is authorized to be appropriated starting in FY2018 and each fiscal year thereafter to carry out the technical assistance, data collection and evaluations, clearing house, and report.
- Requires the Secretary of HHS, in consultation with the Secretariat for the Interstate Compact on the Placement of Children and the States, to assess how the electronic interstate case-processing system could be used to better serve and protect children who come to the attention of the child welfare system, including connecting with other data systems, improving reporting for children identified as sex trafficking victims or missing from foster care, and improving the ability of states to quickly conduct background checks. (Sec. 50722)
- HHS will provide \$8 million in competitive grants to states, Indian tribes or tribal consortia to support the recruitment and retention of high-quality foster families to increase their capacity to place more children in family settings. Grants would focus on the states, tribes or tribal consortia with the highest percentage of children in non-family settings. Funding would remain available through FY2022. (Sec. 50751)
- HHS will provide \$5 million in grants beginning in FY2018 and remaining available through FY2022 to help states develop electronic interstate case-processing systems. HHS must submit a report to Congress about the impact of these systems within a year of the final year that funds are awarded. (Sec. 50722)
- Requires the Government Accountability Office (GAO) to study the extent to which states are reinvesting a portion of state savings into adoption services. (Sec. 50782)
- Renames the following programs and updates the purposes of the programs to reflect the changes:
 - Title IV-E Federal Payments for Foster Care and Adoption Assistance to “Federal Payments for Foster Care, Prevention, and Permanency”. (Sec. 50733)

- Regional Partnership Grants to Increase the Well-Being of and to Improve the Permanency Outcomes for Children Affected by Substance Abuse to “Regional Partnership Grants to Implement IV-E Prevention Services, and Improve the Well Being of, and Improve Permanency Outcomes for, Children and Families Affected by Heroin, Opioids, and Other Substance Abuse”. (Sec. 50723)
- John H. Chafee Foster Care Independence Program to “John H. Chafee Foster Care Program for Successful Transition to Adulthood.” (Sec. 50753)

STATE

- Requires that states must include in their Title IV-B Child Welfare Services plans a description of the activities to address the developmental needs of all vulnerable children under five years of age who are receiving services under Title IV-E or Title IV-B (not just children in foster care). (Sec. 50772)

Effective on October 1, 2018

FEDERAL

- Makes changes to the Regional Partnership Grants, including standards, grant amount, reporting and the goals and outcomes. Allows funds to be used for medicated assisted treatment and in-home substance use disorder treatment and recovery. Requires the Secretary of HHS to establish a set of core indicators related to child safety, parental recovery, parenting capacity, and family wellbeing to be used to assess the performance of grant recipients. (Sec. 50723)
- No later than October 1, 2018, HHS is required to release guidance on the practice criteria required for the prevention services or programs and a pre-approved list of services and programs that meet the requirements of promising, supported, and well-supported practices. The guidance may be updated as often as necessary. (Sec. 50711)
- No later than October 1, 2018, HHS is required to identify reputable model licensing standards for foster family homes. (Sec. 50731)

STATE

- States may claim Title IV-E foster care maintenance payments for a child) who is placed with a parent in a licensed residential family-based treatment facility for up to 12 months. No income test would apply for receipt of these services, which would be reimbursed at the state’s FMAP rate. (Sec. 50712)
- States may claim Title IV-E reimbursement for 50 percent of the state’s expenditures on kinship navigator programs that are promising, supported or well-supported practices. (Sec. 50713)
- The time limit for reunification services provided through Title IV-B Promoting Safe and Stable Families for a child in foster care preparing to return home is eliminated. The 15-

month limit for reunification services provided after a child has reunified is adjusted to begin on the date the child returns home. (Sec. 50721)

- Requires Title IV-E state plans to include a description of the criminal records checks, including fingerprint-based checks of national crime information databases, and checks of child abuse and neglect registries on any adult working in a child-care institution, including a group home, residential treatment center, or other congregate care setting. (Sec. 50745)
- States will be required to document in their Title IV-B Child Welfare Services state plans the steps they are taking to track and prevent child maltreatment fatalities (Sec. 50732)
- States must include a description of the criminal records checks, including fingerprint-based checks of national crime information databases, and checks of child abuse and neglect registries on any adult working in a child-care institution, including a group home, residential treatment center, or other congregate care setting in their Title IV-E plans. (Sec. 50745)

Effective on April 1, 2019

STATE

- States must submit to HHS by April 1, 2019 information about their licensing standards for family foster homes, including whether the state licensing standards are in accord with model standards identified by HHS and, if they are deviating from the national standard, states must provide reasons why. (Sec. 50731)

Effective on October 1, 2019

STATE

- States have the option to begin claiming Title IV-E for evidence-based prevention services for children who are candidates for foster care and their parents or kin caregivers of the children, or who are pregnant or parenting foster youth. (Sec. 50711)
- Changes to what types of out of home placements would be eligible for federal Title IV-E reimbursement go into effect. New procedures and protocols to ensure that placement in a non-foster family home is appropriate and meets the needs of the child are required.
 - States have the option to delay implementation of this provision for up to 2 years until October 1, 2021. However, a delay in implementation of this requires a delay of implementation of claiming of the new Title IV-E prevention services. (Sec. 50741)
- No later than October 1, 2019, HHS is required to submit to the U.S. House of Representatives Committee on Ways and Means and the U.S. Senate Committee on Finance a report on the National Youth in Transition Database and any other databases in which states report outcome measures relating to children in foster care, children who

have aged out of foster care or left foster care for kinship guardianship or adoption. (Sec. 50753)

- States will need to include in their Title IV-E state plan a certification that, with respect to foster care maintenance payments made on behalf of any child who is placed in a setting that is not a foster family home, the state would not enact policies or practices that result in a significant increase in the state's juvenile justice system. (Sec. 50741)

Effective on January 1, 2020

FEDERAL

- No later than January 1, 2020, the Secretary of HHS must submit a report to Congress on the results of an evaluation of the procedures and protocols established by states to prevent inappropriate diagnoses with mental illness, other emotional or behavioral disorders, medically fragile conditions, or developmental disabilities, and placed in settings that are not foster family homes as a result of the inappropriate diagnoses. (Sec. 50743)

Effective on February 9, 2020

FEDERAL

- No later than February 9, 2020 (24 months after enactment) the Secretary of HHS is required to issue a proposed rule to identify federally required data exchanges, which includes the timing of exchanges to be standardized and addresses the factors used in determining whether and when to standardize data exchanges. It also will specify state implementation options and describe future milestones. (Sec. 50771)

Effective on October 1, 2020

FEDERAL

- Requires the Secretary of HHS, beginning with FY 2021, to establish the following prevention services measures based on information and data reported by states: the percentage of candidates who do not enter foster care and per-child spending for each service made available to the public. Requires the Secretary of HHS to annually make available to the public the prevention services measures of each state. (Sec. 50711)

Effective on July 1, 2024

STATE

- Beginning July 1, 2024, the Adoption Assistance delink (elimination of the income test based on AFDC standards) would be complete and all special needs children of any age would be eligible for Title IV-E Adoption Assistance without application of an income test. (Sec. 50781)

DRAFT: June 7, 2018

Effective on December 31, 2025

FEDERAL

- No later than December 31, 2025, the Government Accountability Office must submit a report to Congress with findings of a study evaluating the impact on the juvenile justice system resulting from the new restrictions on federal reimbursement for children not placed in a foster family home. (Sec. 50741)

Effective on October 1, 2026

STATE

- For states, tribes and territories operating a Title IV-E prevention services program, the reimbursement rate received by the state changes from 50% to the state's Federal Medical Assistance Percentage (FMAP). The FFP for tribes is the tribal FMAP unless the tribal FMAP is less than the FMAP of the state. For the District of Columbia, FMAP is 70%

Effective on October 1, 2027

STATE

- All states must use an electronic case processing system. Exceptions are made for Indian tribes, tribal organizations, or tribal consortiums that elect to operate a Title IV-E program. (Sec. 50722)

Family First Prevention Services Act (FFPSA)

An Overview for the Courts

The Family First Prevention Services Act (FFPSA) was passed by Congress and signed into law (P.L. 115-123) as part of the Bipartisan Budget Act on February 9, 2018. The legislation was the culmination of years of discussion among key Congressional leaders, Administration officials, states, tribes, and child welfare advocates committed to advancing policies to promote the safety, permanency, and well-being of children and their families.

FFPSA includes numerous family-centered policies intended to focus federal resources on policies that ensure children can be safely served in their homes, with their families and in their communities. For the first time, federal reimbursements are available to states under Title IV-E of the Social Security Act to support children and their birth parents, kinship caregivers or adoptive parents to prevent entry into foster care. Funding is available for up to twelve months for evidence-based and trauma informed prevention services that address treatment in mental health, substance abuse or in-home parent skill-based training for any child a state determines is at imminent risk of entering foster care, as well as their parents or caregivers, and pregnant and parenting teens in foster care. Unlike Title IV-E foster care maintenance payments, the new prevention services have no income test. FFPSA also amends federal law to ensure federal funds are spent on settings that are the most appropriate for children by limiting federal payments to states when children are placed inappropriately in non-family settings, such as congregate care facilities.

The Family First Prevention Services Act also will give states, tribes, and the courts new tools to improve outcomes for vulnerable children and their families. For example, federal law has long required state agencies to demonstrate to the courts that reasonable efforts have been made to provide assistance and services to prevent the removal of a child from his or her home, to make it possible for a child who has been placed in out-of-home care to be reunited with his or her family, and to finalize an alternative permanent plan when reunification is no longer appropriate. FFPSA provides increased federal resources to support prevention activities that may assist states and tribes to meet reasonable efforts to prevent foster care placement. FFPSA also reauthorizes and provides funds for each of the next five fiscal years (FY2017-FY2021) for the Court Improvement Program as well as other Title IV-B prevention programs.

The remainder of this document is intended to provide an overview of select provisions in FFPSA impacting the courts.

Court specific provisions in the Family First Prevention Services Act (P.L. 115-123)

Court Improvement Program

The Court Improvement Program (CIP) provides three grant opportunities to state courts to focus on improving court efficiency and the quality of legal representation. Specifically, (1) a basic grant for assessment and improved handling of child abuse and neglect proceedings; (2)

a grant for data collection and analysis to improve the timeliness of court decision regarding the safety, permanence and well-being of children; and (3) a grant to increase training of judges and legal personnel and attorneys in handling of child welfare cases.

- The Family First Prevention Services Act (FFPSA) reauthorizes the Court Improvement Program and provides \$30 million in funding for each of the next 5 fiscal (FY) years, from FY2017 through FY2021. (*Section 50752*)
- FFPSA requires that as a condition of the receipt of Court Improvement Program funds that judges, attorneys, and other legal personnel are trained and educated about the changes FFPSA makes to federal child welfare policies and payment limitations on placements that are not family foster homes (with relatives or foster parents) for children in foster care. (*Section 50741 (c)*).

Ensuring Placements in Foster Care are Appropriate and Meeting the Needs of the Child

Federal law mandates that each child's case plan includes a discussion of how the plan is designed to achieve a safe placement for the child in the least restrictive (most family-like) setting available, and in close proximity to the home of the parent(s) when the case plan goal is reunification. Case plans must also address how the placement is consistent with the best interest and special needs of the child.

There is consensus across multiple stakeholders that most children and youth, especially young children, are best served in a family setting. FFPSA makes changes to federal law to support the placement of children in the most family-like setting and to limit federal payments to states when children are placed inappropriately in non-family settings, such as group homes or congregate care facilities. (*Sections 50741-50746*)

- The following placement options already are allowable under current Title IV-E and will continue under FFPSA:
 - Facility for pregnant and parenting youth
 - Supervised independent living for youth 18 years and older
 - Specialized placements for youth who are victims of or at-risk of becoming victims of sex trafficking
 - Foster Family Home (defined) – no more than 6 children in foster care, with some exceptions
- Beginning October 1, 2018, Title IV-E foster care maintenance payments can be made on behalf of a child in foster care who is placed with their parent in a licensed residential family-based treatment facility for up to 12 months. (*Sec. 50712*)
 - No income test applies for these services, unlike other Title IV-E foster care placements.

- Beginning as early as October 1, 2019, after 2 weeks in care, Title IV-E federal maintenance payment support will be available for Title IV-E eligible youth placed in a Qualified Residential Treatment Program (QRTP) which meets all the following requirements:
 - Has a trauma informed treatment model
 - Has registered or licensed nursing and other licensed clinical staff onsite, consistent with the QRTP's treatment model.
 - Facilitates outreach and engagement of the child's family in the child's treatment plan
 - Provides discharge planning and family-based aftercare supports for at least 6 months
 - Is licensed by the state and accredited

- ❖ These provisions are effective October 1, 2019, however, the law provides states with the option to delay the effective date for up to two years. Any state that chooses to delay must also postpone seeking new federal Title IV-E prevention resources for the same period of time.

- Courts are required to have oversight over child welfare cases. FFPSA expands the court's role to ensure that placements are appropriate and based on the child's clinical needs. FFPSA clearly states that lack of a family foster home is not a sufficient reason to place a child in congregate care. FFPSA requires courts, including tribal courts, to review the assessment for each child placed in a QRTP, and approve or disapprove the appropriateness of the placement within 60 days of such placement. An assessment, which is to be reviewed by the court, will be completed by a "qualified individual" who is a trained professional or licensed clinician, who is not a state employee or affiliated with any placement setting in the state. The U.S. Department of Health and Human Services (HHS) will release guidance on valid assessment tools. The review and court approval or disapproval will be required to be considered at each of the child's permanency hearings thereafter. (Sec 50742)
 - If it is determined that a QRTP placement is appropriate for a child, the qualified individual making such assessment is required to document in writing why the child's needs cannot be met by her family or in a foster family, and why the QRTP will provide the most effective and appropriate level of care and in the least restrictive environment, and how it is consistent with short and long term goals of the child. This assessment will be reviewed by the court and documentation of the determination of the court on placement shall be included in and made part of the case plan for the child.
 - For children remaining in a QRTP, at every permanency hearing, the state will (1) need to submit evidence that ongoing assessment determines the child's

placement in the QRTP remains appropriate; (2) document efforts underway to prepare the child to move to a family setting; and (3) document the specific treatment or service needs met by the QRTP and the length of time the child is expected to need those treatment and services..

- FFPSA requires that as a condition of the receipt of Court Improvement Program funds that judges, attorneys, and other legal personnel are trained and educated about the changes FFPSA makes to federal child welfare policies and payment limitations on placements that are not family foster homes (with relatives or foster parents) for children in foster care. (*Section 50741 (c)*).

Development of Statewide plans to prevent Child Abuse and Neglect Fatalities

- FFPSA law specifically directs states to include the courts, law enforcement and public health in the development of statewide plans to prevent child abuse and neglect fatalities. (*Sec. 50732*)

❖ This requirement is effective October 1, 2018.

Involvement of the Court in Regional Partnership Grants

- Regional Partnership Grants to improve outcomes for families at risk or involved in child welfare to substance abuse were set to expire September 30, 2017. FFPSA reauthorizes the Regional Partnership Grants and funds the grants for each of the next five fiscal years (FY2017-FY2021) FFPSA further requires courts or the administrative office of the court that handle child abuse and neglect proceedings to be an official partner in regional partnerships that intend to serve children placed in out-of-home care (*Sec. 50723*)

❖ This provision is effective beginning on October 1, 2018.

Provisions in the Family First Prevention Services Act that may indirectly impact the courts

Prevention Activities

Key Congressional leaders have stated that one of the goals of the reform efforts in the Family First Prevention Services Act is to preserve families. States had repeatedly made the case that they can reduce costs and keep families together if permitted to use Title IV-E funds for prevention services. If states are successful in the implementation of prevention services

allowed in the law, the number of children coming into care and cases filed is expected to decline. Courts might also factor in the availability of such services in determining whether the agency made reasonable efforts to prevent the need to remove children into care.

- As early as October 1, 2019, FFPSA allows states to receive open-ended entitlement (Title IV-E) funding for evidence-based and trauma-informed prevention services that address mental health, substance abuse treatment, and in-home parenting skills (parent training, home visiting, individual and family therapy). Children at imminent risk of placement in foster care (referred to as “candidates for foster care”) as well as pregnant and parenting youth in foster care are eligible. Their parents or kinship caregivers also are eligible for these services. Unlike Title IV-E foster care support, there is no income test for eligibility. Services are allowable for up to 12 months, with no limit on how many times a child and family can receive prevention services if the child continues to be at risk of entry into foster care. Each candidate for foster care and pregnant or parenting youth must have a written prevention plan that specifies the needed services for or on behalf of the child. (*Sections 50711-50713*)
- Direct-funded Tribes also may apply to receive Title IV-E funds for prevention. HHS will specify the requirements as well as specific performance measures applicable for tribes which will be similar to state requirements, but will allow for cultural adaptation. (*Section 50711*)
 - ❖ While this provision is effective as early as October 1, 2019 if the state or tribe chooses to delay for up to two years the changes around which placement settings are available for federal foster care maintenance support, the state also must delay when they can begin receiving Title IV-E prevention resources.

Family Reunification Services

FFPSA eliminates the current 15-month time limit on the use of Title IV-B funds for family reunification for children in foster care in the Promoting Safe and Stable Families program. Instead, FFPSA defines that a child returning home with his/her parents will have access to 15 months of reunification beginning on the date the child returns home. (*Section 50721*)

This change may impact the case plans presented to the courts, and may impact reasonable efforts finding by the courts.

- ❖ This provision is effective beginning on October 1, 2018.

Promoting Timely Permanency for Children across State Lines

FFPSA requires that, no later than October 1, 2027, states use an electronic interstate case-processing system for exchanging data and documents to help expedite the interstate placement of children in foster care, adoption or guardianship. U.S. territories, Indian tribes,

tribal organizations and tribal consortiums are exempt from the requirement. The law provides \$5 million in new grants (starting in FY2018, with funds that remain through FY2022) to states for the development of such systems, and directs HHS to prioritize funding states not yet connected with the electronic interstate case-processing system. (*Section 50722*)

In addition, HHS will work with the Secretariat for the Interstate Compact on the Placement of Children and the states in assessing how this system can be used in data integration of other systems to serve and protect children that come to the attention of the child welfare system. The assessment will examine how the system will speed up background checks for prospective foster and adoptive families, complete checks of child abuse and neglect registries, as well as improve the connection with state and federal law enforcement agencies and judicial agencies to better protect missing or trafficked children and reporting of these children. (*Section 50722*)

This change is intended to reduce the amount of time that it takes to place children across state lines, and could impact the length of time cases are before the courts.

- ❖ This provision is effective beginning on October 1, 2018, although states will have until October 1, 2027 for their systems to be developed and running.

Additional Provisions of Interest

FFPSA also provides new resources in a number of areas to ensure the safety, permanency, and well-being of children and their families.

- Provides \$8 million in FY2018 for grants to states and tribes to support the recruitment and retention of high quality foster families. (*Section 50751*)
- Provides Title IV-E reimbursement of 50% for evidence-based kinship navigator programs as early as October 1, 2018. (*Section 50172*)
- Reauthorizes the Adoption and Legal Guardianship Incentive programs through FY2022. (*Section 50761*). .
- Reauthorizes the following Title IV-B programs and services until FY2021 (*Section 50752*)
 - Stephanie Tubbs Jones Child Welfare Services Program, including funding for monthly caseworker visits
 - Promoting Safe and Stable Families Program
 - Court Improvement Program (mentioned above)
 - Regional Partnership Grants to Increase the Well-Being of, and to Improve the Permanency Outcomes for, Children Affected by Heroin, Opioids, or Other Substance Abuse (mentioned above)

- Reauthorizes and makes revisions to the John H. Chafee Foster Care Independence Program until FY2021. (*Section 50753*)
 - The revisions of the Chafee program emphasize successful transitions to adulthood. Also, for states that have chosen to extend foster care to youth to age 21, FFPSA extends to age 23 the financial, housing, counseling, employment education and other supports and services for former foster care youth provided under the Chafee program.
 - FFPSA also extends to age 26 eligibility for Education and Training Vouchers under Chafee (previously only available to youth up to age 23), and clarifies that higher education vouchers are also available to youth who are at least 14 years old. Youth cannot participate in the voucher program for more than 5 years but their education and training does not need to be consecutive.

- Requires HHS to identify model foster parent licensing standards no later than October 1, 2018. States will have to identify how they will implement such standards or provide an explanation as to why the model standards are not appropriate for their state by April 1, 2019. (*Section 50731*)

- Requires inclusion in the state's Title IV-B plan a description of activities to reduce the length of time to permanency and the activities the state undertakes to address the developmental needs of all vulnerable children under the age of 5 who receive services from Title IV-B or Title IV-E. (*Section 50772*)

Family First Prevention Services Act summary

The Family First Prevention Services Act was passed and signed into law (P.L. 115-123) as part of the Bipartisan Budget Act on February 9, 2018. Below is a high-level summary of the provisions in the Family First Prevention Services Act.

Prevention activities under Title IV-E of the Social Security Act

- Allows states the option to use new open-ended Title IV-E funds to provide prevention services and programs for up to 12 months for children at imminent risk of entering foster care, any parenting or pregnant youth in foster care, and the parents — biological or adopted — as well as kin caregivers of these children.
 - The new Title IV-E prevention services, as well as training and administrative costs associated with developing these services, would have no income test (be “delinked” from the AFDC income eligibility requirement).
 - Eligible services would include evidence-based mental health and substance abuse prevention and treatment services, and in-home parent skill-based services.
 - The new option would take effect October 1, 2019, with the federal level of support set at 50 percent; effective October 1, 2026, the federal level of support would be the state’s FMAP rate.
 - Tribes who operate direct Title IV-E programs would also be eligible to choose to operate a prevention program.
- Allows for Title IV-E foster care maintenance payments to be made for a child in foster care placed with a parent in a licensed residential family-based treatment facility for up to 12 months. No income eligibility test would apply for receipt of these services.
- Permits Title IV-E support for evidence-based kinship navigator programs with the federal level of support at 50 percent of the state’s total cost.

Enhanced support under Title IV-B

- Eliminates the time limit for reunification services provided during a child’s placement in foster care and adjusts the start of time limits for family reunification services in the Promoting Safe and Stable Families Program to the date of reunification instead of the date of foster care placement. This change will allow activities to be provided to a family for a 15-month period that begins on the date that the child returns home (is reunified).
- Requires that states, territories and tribes operating a Title IV-E program use an electronic interstate case processing system to expedite the interstate placement of



children in foster care by FY2027, guardianship or adoption and provides \$5 million in grants to states.

- Reauthorizes and makes changes to the Regional Partnership Grants to provide evidence-based services to prevent child abuse and neglect related to heroin, opioids and other substance abuse for FY2017 through FY2021.

Other provisions

- Requires the Secretary of the U.S. Department of Health and Human Services to identify model licensing standards for relative foster family homes by October 1, 2018.
- Requires states to document steps taken to track and prevent child maltreatment deaths.

Ensuring the necessity of a placement that is not in a foster family home

- Establishes new procedures and protocols to promote placement in foster family home settings beginning October 1, 2019, by outlining conditions for what placements will be eligible for Title IV-E foster care maintenance payments for children placed in settings other than family homes known as Qualified Residential Treatment Programs (QRTP).
- Defines a QRTP as a trauma-informed treatment model that is designed to address the clinical needs of the enrolled children as identified by the assessment.
- Allows child care institutions to use contracts and consultants to meet the nursing standards.
- Requires that judges and attorneys and other legal personnel in child welfare cases are educated on these changes as a condition of the highest state courts receiving Court Improvement Program (CIP) funding.
- Requires criminal records checks and checks of any child abuse and neglect registries for adults working in child care institutions and other group care settings beginning October 1, 2018.

Continuing support for child and family services

- Provides \$8 million in FY2018 for grants to states and tribes to support the recruitment and retention of high quality foster families.





- Reauthorizes Title IV-B programs and services, including the Stephanie Tubbs Jones Child Welfare Services Program, the Promoting Safe and Stable Families Program, the Court Improvement Program and the John H. Chafee Foster Care Independence Program (Chafee) from FY2017 through FY2021.
- Makes revisions to the Chafee program to emphasize more successful transitions to adulthood, including allowing states to provide services to youth who have aged out of foster care up to age 23, and allowing 5 years of eligibility for Education and Training Vouchers up to age 26. It also allows HHS to redistribute any unspent Chafee funds.

Continuing incentives to states to promote adoption and legal guardianship

- Reauthorizes and funds at the current level of \$43 million per year the Adoption and Legal Guardianship Incentive Programs through FY2022.
- Amends Title IV-B state plan requirements to include information about what the state is doing to address the developmental needs of all vulnerable children under 5 years of age who are receiving services under Title IV-E or Title IV-B (not just children in foster care).

Ensuring states reinvest savings resulting from the increase in adoption assistance

- Delays eligibility for Title IV-E adoption assistance that was enacted as part of the Fostering Connections to Success and Increasing Adoptions Act of 2008. The delay would affect children with special needs who are less than 2 years old when their adoption assistance agreement is finalized between FY2017 to FY2023; or in FY2024 in the case of a child 2 years old or for whom an adoption assistance agreement is entered into on or after July 1, 2024, of any age. In FY2025 and thereafter, children of any age would be eligible regardless of income.
- Directs the U.S Government Accountability Office (GAO) to examine whether states are reinvesting all of the state savings under this provision, and whether not less than 30 percent of these savings are used for post-adoption and post-guardianship services, and services that support permanency and other outcomes for children who would otherwise enter foster care.



Juvenile Justice Today; Practicing EBP in Your Courtroom
COJC Meeting Handout
10/18/2018

DAY ONE	
	WELCOME & INTRODUCTIONS
	THE DELINQUENCY PROCESS <ul style="list-style-type: none"> • Develop a working knowledge of key responsibilities of an Arizona juvenile court judge that holds the juvenile accountable, promotes community safety, effectively use of detention • Become familiar with JDAI principles, Detention Screening Instrument (DSI), language from the bench required for Title 4E finding, CYPM variables that may include dependency court involvement with a juvenile
	LUNCHTIME PRESENTATION: Kids at Hope <ul style="list-style-type: none"> • Understand the Power of Hope, and view the juvenile and their parents as being at hope • Begin to foster a courtroom with all involved parties of belief, guidance, and encouragement, creating a sense of hope and optimism for the juvenile and their family
	TOOLS OF THE TRADE: SCREENING, ASSESSING, & EVALUATING YOUTH <ul style="list-style-type: none"> • Develop a working knowledge of the resources used to guide recommendations and court decisions that are evidence-based, promote juvenile accountability, rehabilitation, crime reduction, community protections, and keeping families together <ul style="list-style-type: none"> ○ Detention Screening Instrument (DSI) ○ Arizona Youth Assessment System (AZYAS) ○ Recommendations Matrix (consistent EBP decision-making tool guiding a continuum of supervision & continuum of services) ○ Correctional Program Checklist (CPC- program improvement) ○ AZ SMB Study ○ CYPM Protocols ○ Community Resources
	Case Scenarios and Wrap-up: What Does All This Mean to Me?

Juvenile Justice Today; Practicing EBP in Your Courtroom
COJC Meeting Handout
10/18/2018

DAY TWO	
	WELCOME & HOUSEKEEPING
	<p>LOOKING THROUGH A TRAUMA INFORMED LENS FROM THE BENCH & Understanding the Impact of Adolescent Brain Development:</p> <ul style="list-style-type: none"> • Develop a working knowledge of key aspects of adolescent development and learn how to apply this knowledge in decision making at critical junctures in the juvenile court process • Gain an understanding of adolescent development and the impact of external factors that affect the youth’s actions and decision making and, the interventions which are likely to be most effective • Learn how various types of disabilities and disorders affect youth’s decision-making capacities and behavior
	LUNCHTIME PRESENTATION: Kids at Hope videos
	<p>STRENGTHENING FAMILIES</p> <ul style="list-style-type: none"> • Understand the benefits of engaging families of youth in contact with the juvenile justice system and how it can lead to better outcomes for youth • Understand that the individual family characteristics impact the child and their family and will result in varied courtroom behaviors • Gain knowledge on the interventions that are known to be the most effective to actively engage the youth and their families
	<p>COMMUNICATION WITH YOUTH – YOUTH PANEL</p> <ul style="list-style-type: none"> • Understand the value of involving youth in decisions that will affect them • Understand the importance for youth to participate in normal, everyday teenage activities and how terms & conditions impact their success within the system and healthy adolescent growth and development
	Closing Thoughts

Juvenile court; destruction of records

1 Section 5. 8-349. Destruction of juvenile records; electronic
2 research records

3 A. A person who has been referred to juvenile court may apply for
4 destruction of the person's juvenile court and department of
5 juvenile corrections records IF

6 ~~B. If The records concern a referral or citation that did not~~
7 ~~result in further action or that resulted in diversion, OR~~
8 ~~placement in a community based alternative program~~

9 ~~or an~~ THE RECORDS INVOLVE AN adjudication for an offense other
10 than an offense listed in section 13-501, subsection A or B, or
11 title 28, chapter 4. ~~the person shall file an application with the~~
12 ~~juvenile court and shall serve a copy of the application on the~~
13 ~~county attorney in the county in which the referral was made. The~~
14 ~~person shall certify under oath that all of the following apply:~~

15 B. THE APPLICANT SHALL STATE THAT:

16 1. The person is at least eighteen years of age.

17 2. THE PERSON IS NO LONGER UNDER THE JURISDICTION OF THE JUVENILE
18 COURT OR THE DEPARTMENT OF JUVENILE CORRECTIONS.

19 ~~23.~~ The person has not been convicted of a felony offense or
20 adjudicated delinquent for an offense that would be an offense
21 listed in section 13-501, subsection A or B or title 28, chapter
22 4.

23 4. THE PERSON IS NOT REQUIRED TO REGISTER PURSUANT TO SECTION 13-
24 3821.

25 ~~3~~ 5. A criminal charge is not pending.

26 ~~4~~ 6. The person has ~~successfully~~ completed ~~all of~~ the terms and
27 conditions of court ordered probation or HAS been discharged from
28 the department of juvenile corrections pursuant to section 41-2820
29 on successful completion of the individualized treatment plan.

30 ~~5~~ 6. ~~all~~ ALL restitution and monetary assessments OWED BY THE
31 APPLICANT have been paid in full.

32 C. THE CLERK SHALL TRANSMIT A COPY OF THE APPLICATION TO THE COUNTY
33 ATTORNEY IN THE COUNTY IN WHICH THE REFERRAL WAS MADE.

34 ~~ED.~~ The juvenile court may order the destruction of records under
35 subsection ~~B A of this section~~ if the court finds all of the
36 following:

37 1. The person is at least eighteen years of age.

38 2. THE PERSON IS NO LONGER UNDER THE JURISDICTION OF THE JUVENILE
39 COURT OR THE DEPARTMENT OF JUVENILE CORRECTIONS.

1 2 3. The person has not been convicted of a felony offense.
2 3 4. A criminal charge is not pending.
3 4 5. The person was not adjudicated for an offense listed in
4 section 13-501, subsection A or B or title 28, chapter 4.
5 6. THE PERSON IS NOT REQUIRED TO REGISTER PURSUANT TO SECTION 13-
6 3821.
7 5 7. The person successfully completed ~~all-of~~ the terms and
8 conditions of probation or was discharged from the department of
9 juvenile corrections pursuant to section 41-2820 on successful
10 completion of the individualized treatment plan.
11 6 8. All restitution and monetary assessments OWED BY THE APPLICANT
12 have been paid in full.
13 ~~7. The destruction of the records is in the interests of justice.~~
14 8 9. The destruction of the records would further the
15 rehabilitative process of the applicant.
16 ~~D E. If the records concern a referral that resulted in an~~
17 ~~adjudication of delinquency for an offense not subject to~~ A PERSON
18 WHO IS NOT ELIGIBLE TO HAVE THE PERSON'S RECORDS DESTROYED PURSUANT
19 TO subsection B A of this section the person shall file the
20 application with the juvenile court and shall a copy of the
21 application on the county attorney in the county in which the
22 referral was made. The person shall certify under oath that all of
23 the following MAY apply TO HAVE THE PERSON'S JUVENILE COURT AND
24 DEPARTMENT OF JUVENILE CORRECTIONS RECORDS DESTROYED PURSUANT TO
25 SUBSECTION G.
26 F. THE APPLICANT SHALL STATE THAT:
27 1. The person is at least twenty-five years of age.
28 2. The person has not been convicted of a felony offense.
29 3. A criminal charge is not pending.
30 4. ~~The person has successfully completed all of the terms and~~
31 ~~conditions of court ordered probation or been discharged from the~~
32 ~~department of juvenile corrections pursuant to section 41-2820 on~~
33 ~~successful completion of the individualized treatment plan. THE~~
34 PERSON IS NOT REQUIRED TO REGISTER PURSUANT TO SECTION 13-3821.
35 5. All restitution and monetary assessments OWED BY THE PERSON
36 have been paid in full.
37 E G. The juvenile court may order the destruction of records under
38 subsection D E of this section if the county attorney does not
39 object within ninety days after the date of the notice and the
40 court finds that all of the following apply:
41 1. The person is at least twenty-five years of age.

- 1 2. The person has not been convicted of a felony offense.
2 3. A criminal charge is not pending.
3 4. The person has successfully completed ~~all of~~ the terms and
4 conditions of court ordered probation or been discharged from the
5 department of juvenile corrections pursuant to section 41-2820 on
6 successful completion of the individualized treatment plan.
7 5. THE PERSON IS NOT REQUIRED TO REGISTER PURSUANT TO SECTION 13-
8 3821.
9 5 6. All restitution and monetary assessments OWED BY THE PERSON
10 have been paid in full.
11 ~~6. The destruction of the records would be in the interests of~~
12 ~~justice.~~
13 7. The destruction of the records would further the rehabilitative
14 process of the applicant.
15 H. THE CLERK SHALL TRANSMIT A COPY OF THE APPLICATION TO THE COUNTY
16 ATTORNEY IN THE COUNTY IN WHICH THE REFERRAL WAS MADE.
17 I. THE COUNTY ATTORNEY MAY FILE AN OBJECTION TO THE APPLICATION.
18 FJ. The juvenile court and the department of juvenile corrections
19 may store any records for research purposes.
20 K. WITHIN 90 DAYS OF THE PERSON BECOMING 18 YEARS OF AGE, THE
21 JUVENILE COURT, THE CLERK OF THE COURT, AND THE JUVENILE PROBATION
22 DEPARTMENT SHALL DESTROY RECORDS CONCERNING A REFERRAL OR CITATION
23 THAT DID NOT RESULT IN FURTHER ACTION OR THAT RESULTED IN A
24 SUCCESSFUL COMPLETION OF DIVERSION.
25 L. WITHIN SIX MONTHS OF NOTIFICATION BY THE SUPERIOR COURT THAT A
26 PERSON'S JUVENILE RECORDS WERE DESTROYED, THE DEPARTMENT OF CHILD
27 SAFETY SHALL DESTROY ALL DELINQUENCY COURT, JUVENILE PROBATION,
28 AND ARIZONA DEPARTMENT OF JUVENILE CORRECTIONS RECORDS IN ITS
29 POSSESSION PRODUCED IN THE DELINQUENCY MATTER.
30 M. FOR THE PURPOSES OF THIS SECTION "SUCCESSFUL" MEANS, IN THE
31 DISCRETION OF THE COURT, THE PERSON SATISFIED THE CONDITIONS OF
32 PROBATION.

33
34 10/17/18
35 6:08 pm

Detention centers; dangerous offenses

A.R.S. § 8-305. Detention center; jail; separate custody; definitions

A. The county board of supervisors or the county jail district, if authorized pursuant to title 48, chapter 25, shall maintain a detention center that is separate and apart from a jail or lockup in which adults are confined and where juveniles who are alleged to be delinquent or children who are incorrigible and within the provisions of this article shall be detained when necessary before or after a hearing or as a condition of probation. A juvenile who is charged with an offense ~~that is not a dangerous offense and~~ that is listed in § 13-501 may be detained in a juvenile detention center if the detention is ordered by the court. The board may enter agreements with public or private entities to acquire land for, build, purchase, lease-purchase, lease or expand a detention center required by this section.

B. The board of supervisors or the county jail district, if authorized pursuant to title 48, chapter 25, may provide for the detention of juveniles who are accused or convicted of a criminal offense in a jail or lockup in which adults are confined. A juvenile who is confined in a jail or lockup in which adults are confined shall be kept in a physically separate section from any adult who is charged with or convicted of a criminal offense, and no sight or sound contact between the juvenile and any charged or convicted adult is permitted, except to the extent authorized under federal laws or regulations.

C. A juvenile, pending a juvenile hearing, shall not be confined with adults charged with or convicted of a crime, except that:

1. A juvenile who is accused of a criminal offense or who is alleged to be delinquent may be securely detained in such location for up to six hours until transportation to a juvenile detention center can be arranged if the juvenile is kept in a physically separate section from any adult who is charged with or convicted of a crime and no sight or sound contact between the juvenile and any charged or convicted adult is permitted, except to the extent authorized under federal laws or regulations.

2. A juvenile who is transferred as provided in § 8-327 to the criminal division of the superior court may be securely detained if the juvenile is kept in a physically separate section from any adult charged with or convicted of a crime, and no sight or sound contact with any charged or convicted adult is permitted, except to the extent authorized under federal laws or regulations.

3. A juvenile who is arrested for an offense listed in § 13-501 may be detained in a juvenile detention center until formally charged as an adult. After a juvenile has been formally charged as an adult the

1 juvenile may be either of the following:

2 (a) Detained in a juvenile detention center if ~~the offense is not a~~
3 ~~dangerous offense and~~ the detention is ordered by the court.

4 (b) Securely detained in an adult facility if the juvenile is detained
5 separately from any adult charged with or convicted of a crime, except
6 to the extent authorized under federal laws or regulations.

7 **D.** In determining whether to order that a juvenile who is charged with
8 an offense ~~that is not a dangerous offense and~~ that is listed in § 13-
9 501 be detained in a juvenile detention center or an adult facility
10 pursuant to subsection A or subsection C, paragraph 3, subdivision (a)
11 of this section, the court shall consider all of the following:

12 1. The best interests of both the juvenile charged as an adult and the
13 other juveniles detained in the juvenile detention center.

14 2. The severity of the charges against the juvenile charged as an adult.

15 3. The existing programs and facilities for juveniles at both the
16 juvenile detention center and the adult facility.

17 4. Any other factor relevant to the determination of where to detain
18 the juvenile.

19 **E.** A child who is alleged to be delinquent or who is alleged to be
20 incorrigible shall not be securely detained in a jail or lockup in which
21 adults charged with or convicted of a crime are detained. A child may
22 be nonsecurely detained if necessary to obtain the child's name, age,
23 residence or other identifying information for up to six hours until
24 arrangements for transportation to any shelter care facility, home or
25 other appropriate place can be made. A child who is nonsecurely detained
26 shall be detained separately from any adult charged with or convicted
27 of a crime, and no sight or sound contact with any charged or convicted
28 adult is permitted, except to the extent authorized under federal laws
29 or regulations.

30 **F.** Any detained juvenile or child who, by the juvenile's or child's
31 conduct, endangers or evidences that the juvenile or child may endanger
32 the safety of other detained children shall not be allowed to
33 intermingle with any other juvenile or child in the detention center.

34 **G.** Pursuant to § 8-322, the county board of supervisors, the county
35 jail district board of directors or the administrative office of the
36 courts on behalf of the juvenile court may enter into an agreement with
37 public or private entities to provide the detention centers required by
38 subsection A of this section.

39 **H.** For the purposes of this section:

40 ~~1. "Dangerous offense" has the same meaning prescribed in § 13-105.~~

41 ~~2.~~ "Juvenile" includes a person who is under the jurisdiction of the
42 juvenile court pursuant to § 8-202, subsection H.

10/12/18

6:11 pm

Setting aside adjudications; requirements

1 Section 3. ~~8-348.~~ Setting aside adjudication; application; release
2 from disabilities; exceptions

3 A. Except as provided in subsections ~~C and D~~ I of this section, a
4 person who is at least eighteen years of age, ~~AND NO LONGER UNDER~~
5 ~~THE JURISDICTION OF THE JUVENILE COURT OR THE DEPARTMENT OF~~
6 ~~JUVENILE CORRECTIONS~~, who has been adjudicated delinquent or
7 incorrigible and who has fulfilled the conditions of probation and
8 discharge ordered by the court or who is discharged from the
9 department of juvenile corrections pursuant to section 41-2820 on
10 successful completion of the individual treatment plan may apply
11 to the juvenile court to set aside the adjudication. The court ~~or~~
12 ~~the department of juvenile corrections~~ shall inform the person of
13 this right ~~IN WRITING~~ at the time ~~the person is discharged~~ ~~OF THE~~
14 ~~DISPOSITION~~.

15 B. The person or, ~~if authorized in writing~~, the person's attorney,
16 probation officer or parole officer may apply to set aside the
17 adjudication. A copy of the application shall be served on the
18 prosecutor. ~~THE CLERK OF THE COURT MAY NOT CHARGE A FILING FEE FOR~~
19 ~~AN APPLICATION TO HAVE AN ADJUDICATION SET ASIDE.~~

20 C. ~~THE COURT MAY CONSIDER THE FOLLOWING FACTORS WHEN DETERMINING~~
21 ~~WHETHER TO SET ASIDE AN ADJUDICATION:~~

- 22 1. ~~THE NATURE AND CIRCUMSTANCES OF THE OFFENSE UPON WHICH THE~~
23 ~~ADJUDICATION IS BASED.~~
- 24 2. ~~WHETHER THE APPLICANT HAS BEEN CONVICTED OF A FELONY OFFENSE.~~
- 25 3. ~~WHETHER THE APPLICANT HAS ANY PENDING CRIMINAL CHARGES.~~
- 26 4. ~~THE VICTIM'S INPUT AND THE STATUS OF VICTIM RESTITUTION OWED BY~~
27 ~~THE PERSON, IF ANY.~~
- 28 5. ~~ANY OTHER FACTOR THAT IS RELEVANT TO THE APPLICATION.~~

29 ~~B D.~~ EXCEPT AS PROVIDED BY SUBSECTION E, if the court grants the
30 application, the court shall set aside the adjudication, ~~DISMISS~~
31 ~~THE PETITION~~ and shall order that the ~~person~~ APPLICANT be released
32 from all penalties and disabilities resulting from the
33 adjudication except those imposed by the department of
34 transportation pursuant to section 28-3304, 28-3306, 28-3307, ~~or~~
35 28-3308 OR 28-3319.

36 ~~Regardless of whether the court sets aside the adjudication, the~~
37 ~~adjudication may be used for any purpose as provided in section 8-~~
38 ~~207 or 13-501 and the department of transportation may use the~~
39 ~~adjudication for the purposes of enforcing the provisions of~~

~~section 28-3304, 28-3306, 28-3307 or 28-3308 as if the adjudication had not been set aside.~~

E. AN APPLICANT WHOSE ADJUDICATION HAS BEEN SET ASIDE SHALL CONTINUE TO OWE ALL REMAINING UNPAID MONETARY OBLIGATIONS THE COURT ORDERS THE APPLICANT TO PAY AND IS SUBJECT TO ALL REMEDIES PURSUANT TO SECTIONS 8-344 AND 8-345 UNTIL THE MONETARY OBLIGATIONS ARE PAID.

F. AT THE TIME OF GRANTING THE APPLICATION THE COURT MAY MITIGATE ANY MONETARY OBLIGATIONS, EXCEPT VICTIM RESTITUTION.

G. IF THE COURT DENIES AN APPLICATION TO HAVE AN ADJUDICATION SET ASIDE, THE COURT SHALL STATE ITS REASONS FOR THE DENIAL IN WRITING AND ON THE RECORD.

H. IF THE VICTIM HAS MADE A REQUEST FOR POST ADJUDICATION NOTICE, A VICTIM HAS THE RIGHT TO BE PRESENT AND BE HEARD AT ANY HEARING IN WHICH THE APPLICANT HAS FILED AN APPLICATION TO HAVE AN ADJUDICATION SET ASIDE. THE STATE SHALL PROVIDE THE VICTIM WITH NOTICE OF THE APPLICATION AND OF THE RIGHTS PROVIDED TO THE VICTIM IN THIS SECTION.

~~C. A person may not apply to set aside the adjudication if the person either:~~

~~1. Has been convicted of a criminal offense.~~

~~2. Has a criminal charge pending.~~

~~3. Has not successfully completed all of the terms and conditions of probation or been discharged from the department of juvenile corrections pursuant to section 41-2820 on successful completion of the individual treatment plan.~~

~~4. Has not paid in full all restitution and monetary assessments~~

D I. This section does not apply to a person who was adjudicated delinquent for any of the following:

~~1. An offense involving the infliction of serious physical injury as defined in section 13-105.~~

~~2. An offense involving the use or exhibition of a deadly weapon or dangerous instrument~~ A DANGEROUS OFFENSE as defined in section 13-105.

2. A SERIOUS OR A VIOLENT OR AGGRAVATED OFFENSE AS DEFINED IN SECTION 13-706

3. An offense ~~in violation of title 13, chapter 14~~ FOR WHICH THE PERSON IS REQUIRED OR ORDERED BY THE COURT TO REGISTER PURSUANT TO SECTION 13-3821.

~~4. An offense in violation of section 28-1381, 28-1382, 28-1383 or 28-3473.~~

- 1 ~~5. A civil traffic violation under title 28, chapter 3.~~
2 4. AN OFFENSE FOR WHICH THERE HAS BEEN A FINDING OF SEXUAL
3 MOTIVATION PURSUANT TO SECTION 13-118.
4 5. AN OFFENSE IN VIOLATION OF SECTION 28-3473, ANY LOCAL ORDINANCE
5 RELATING TO STOPPING, STANDING OR OPERATION OF A VEHICLE OR TITLE
6 28, CHAPTER 3, EXCEPT A VIOLATION OF SECTION 28-693 OR 28-695 OR
7 ANY LOCAL ORDINANCE RELATING TO THE SAME SUBJECT MATTER AS SECTION
8 28-693 OR 28-695.

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1 § 8-341 Disposition and commitment; definitions

2 A. After receiving and considering the evidence on the proper disposition
3 of the case, the court may enter judgment as follows:

4 1. It may award a delinquent juvenile:

5 (a) To the care of the juvenile's parents, subject to the supervision of
6 a probation department.

7 (b) To a probation department, subject to any conditions the court may
8 impose, including a period of incarceration in a juvenile detention center
9 of not more than one year.

10 (c) To a reputable citizen of good moral character, subject to the
11 supervision of a probation department.

12 (d) To a private agency or institution, subject to the supervision of a
13 probation officer.

14 (e) To the department of juvenile corrections.

15 (f) To maternal or paternal relatives, subject to the supervision of a
16 probation department.

17 (g) To an appropriate official of a foreign country of which the juvenile
18 is a foreign national who is unaccompanied by a parent or guardian in this
19 state to remain on unsupervised probation for at least one year on the
20 condition that the juvenile cooperate with that official.

21 2. It may award an incorrigible child:

22 (a) To the care of the child's parents, subject to the supervision of a
23 probation department.

24 (b) To the protective supervision of a probation department, subject to
25 any conditions the court may impose.

26 (c) To a reputable citizen of good moral character, subject to the
27 supervision of a probation department.

28 (d) To a public or private agency, subject to the supervision of a probation
29 department.

30 (e) To maternal or paternal relatives, subject to the supervision of a
31 probation department.

32 B. If a juvenile is placed on probation pursuant to this section, the period
33 of probation may continue until the juvenile's eighteenth birthday or
34 until the juvenile's nineteenth birthday if jurisdiction is retained
35 pursuant to § 8-202, subsection H, except that the term of probation shall
36 not exceed one year if all of the following apply:

37 1. The juvenile is not charged with a subsequent offense.

38 2. The juvenile has not been found in violation of a condition of probation.

39 3. The court has not made a determination that it is in the best interests
40 of the juvenile or the public to require continued supervision. The court
41 shall state by minute entry or written order its reasons for finding that

1 continued supervision is required.
2 4. The offense for which the juvenile is placed on probation does not
3 involve a dangerous offense as defined in § 13-105.
4 5. The offense for which the juvenile is placed on probation does not
5 involve a violation of title 13, chapter 14 or 35.1.¹
6 6. Restitution ordered pursuant to § 8-344 has been made.
7 7. The juvenile's parents have not requested that the court continue the
8 juvenile's probation for more than one year.

9 ~~C. If a juvenile is adjudicated as a first time felony juvenile offender,~~
10 ~~the court shall provide the following written notice to the juvenile:~~

11 ~~You have been adjudicated a first time felony juvenile offender. You are~~
12 ~~now on notice that if you are adjudicated of another offense that would~~
13 ~~be a felony offense if committed by an adult and if you commit the other~~
14 ~~offense when you are fourteen years of age or older, you will be placed~~
15 ~~on juvenile intensive probation, which may include home arrest and~~
16 ~~electronic monitoring, or you may be placed on juvenile intensive~~
17 ~~probation and may be incarcerated for a period of time in a juvenile~~
18 ~~detention center, or you may be committed to the department of juvenile~~
19 ~~corrections or you may be prosecuted as an adult. If you are convicted~~
20 ~~as an adult of a felony offense and you commit any other offense, you~~
21 ~~will be prosecuted as an adult.~~

22 ~~D. If a juvenile is fourteen years of age or older and is adjudicated as~~
23 ~~a repeat felony juvenile offender, the juvenile court shall place the~~
24 ~~juvenile on juvenile intensive probation, which may include home arrest~~
25 ~~and electronic monitoring, may place the juvenile on juvenile intensive~~
26 ~~probation, which may include incarceration for a period of time in a~~
27 ~~juvenile detention center, or may commit the juvenile to the department~~
28 ~~of juvenile corrections pursuant to subsection A, paragraph 1, subdivision~~
29 ~~(e) of this section for a significant period of time.~~

30 ~~⊕~~ C. If the juvenile is adjudicated as a repeat felony juvenile offender,
31 the court shall provide the following written notice to the juvenile:

32 You have been adjudicated a repeat felony juvenile offender. You are now
33 on notice that if you are arrested for another offense that would be a
34 felony offense if committed by an adult and if you commit the other offense
35 when you are fifteen years of age or older, you will be tried as an adult
36 in the criminal division of the superior court. If you commit the other
37 offense when you are fourteen years of age or older, you may be tried
38 as an adult in the criminal division of the superior court. If you are
39 convicted as an adult, you will be sentenced to a term of incarceration.
40 If you are convicted as an adult of a felony offense and you commit any
41 other offense, you will be prosecuted as an adult.

42 ~~⊕~~ D. The failure or inability of the court to provide the notices required

1 under subsections C and E of this section does not preclude the use of
2 the prior adjudications for any purpose otherwise permitted.

3 **G E.** Except as provided in subsection S of this section, after considering
4 the nature of the offense and the age, physical and mental condition and
5 earning capacity of the juvenile, the court shall order the juvenile to
6 pay a reasonable monetary assessment if the court determines that an
7 assessment is in aid of rehabilitation. If the director of the department
8 of juvenile corrections determines that enforcement of an order for
9 monetary assessment as a term and condition of conditional liberty is not
10 cost-effective, the director may require the youth to perform an
11 equivalent amount of community restitution in lieu of the payment ordered
12 as a condition of conditional liberty.

13 **H F.** If a child is adjudicated incorrigible, the court may impose a monetary
14 assessment on the child of not more than one hundred fifty dollars.

15 **I G.** A juvenile who is charged with unlawful purchase, possession or
16 consumption of spirituous liquor is subject to § 8-323. The monetary
17 assessment for a conviction of unlawful purchase, possession or
18 consumption of spirituous liquor by a juvenile shall not exceed five
19 hundred dollars. The court of competent jurisdiction may order a monetary
20 assessment or equivalent community restitution.

21 **J H.** The court shall require the monetary assessment imposed under
22 subsection G or H of this section on a juvenile who is not committed to
23 the department of juvenile corrections to be satisfied in one or both of
24 the following forms:

25 1. Monetary reimbursement by the juvenile in a lump sum or installment
26 payments through the clerk of the superior court for appropriate
27 distribution.

28 2. A program of work, not in conflict with regular schooling, to repair
29 damage to the victim's property, to provide community restitution or to
30 provide the juvenile with a job for wages. The court order for restitution
31 or monetary assessment shall specify, according to the dispositional
32 program, the amount of reimbursement and the portion of wages of either
33 existing or provided work that is to be credited toward satisfaction of
34 the restitution or assessment, or the nature of the work to be performed
35 and the number of hours to be spent working. The number of hours to be
36 spent working shall be set by the court based on the severity of the offense
37 but shall not be less than sixteen hours.

38 **K I.** If a juvenile is committed to the department of juvenile corrections,
39 the court shall specify the amount of the monetary assessment imposed
40 pursuant to subsection G or H of this section.

41 **L J.** After considering the length of stay guidelines developed pursuant
42 to § 41-2816, subsection C, the court may set forth in the order of

1 commitment the minimum period during which the juvenile shall remain in
2 secure care while in the custody of the department of juvenile corrections.
3 When the court awards a juvenile to the department of juvenile corrections
4 or an institution or agency, it shall transmit with the order of commitment
5 copies of a diagnostic psychological evaluation and educational
6 assessment if one has been administered, copies of the case report, all
7 other psychological and medical reports, restitution orders, any request
8 for postadjudication notice that has been submitted by a victim and any
9 other documents or records pertaining to the case requested by the
10 department of juvenile corrections or an institution or agency. The
11 department shall not release a juvenile from secure care before the
12 juvenile completes the length of stay determined by the court in the
13 commitment order unless the county attorney in the county from which the
14 juvenile was committed requests the committing court to reduce the length
15 of stay. The department may temporarily escort the juvenile from secure
16 care pursuant to § 41-2804, may release the juvenile from secure care
17 without a further court order after the juvenile completes the length of
18 stay determined by the court or may retain the juvenile in secure care
19 for any period subsequent to the completion of the length of stay in
20 accordance with the law.

21 ~~M~~ K. Written notice of the release of any juvenile pursuant to subsection
22 L of this section shall be made to any victim requesting notice, the
23 juvenile court that committed the juvenile and the county attorney of the
24 county from which the juvenile was committed.

25 ~~N~~ L. Notwithstanding any law to the contrary, if a person is under the
26 supervision of the court as an adjudicated delinquent juvenile at the time
27 the person reaches eighteen years of age, treatment services may be
28 provided until the person reaches twenty-one years of age if the court,
29 the person and the state agree to the provision of the treatment and a
30 motion to transfer the person pursuant to § 8-327 has not been filed or
31 has been withdrawn. The court may terminate the provision of treatment
32 services after the person reaches eighteen years of age if the court
33 determines that any of the following applies:

- 34 1. The person is not progressing toward treatment goals.
- 35 2. The person terminates treatment.
- 36 3. The person commits a new offense after reaching eighteen years of age.
- 37 4. Continued treatment is not required or is not in the best interests
38 of the state or the person.

39 ~~O~~ M. On the request of a victim of an act that may have involved significant
40 exposure as defined in § 13-1415 or that if committed by an adult would
41 be a sexual offense, the prosecuting attorney shall petition the
42 adjudicating court to require that the juvenile be tested for the presence

1 of the human immunodeficiency virus. If the victim is a minor the
2 prosecuting attorney shall file this petition at the request of the
3 victim's parent or guardian. If the act committed against a victim is an
4 act that if committed by an adult would be a sexual offense or the court
5 determines that sufficient evidence exists to indicate that significant
6 exposure occurred, it shall order the department of juvenile corrections
7 or the department of health services to test the juvenile pursuant to §
8 13-1415. Notwithstanding any law to the contrary, the department of
9 juvenile corrections and the department of health services shall release
10 the test results only to the victim, the delinquent juvenile, the
11 delinquent juvenile's parent or guardian and a minor victim's parent or
12 guardian and shall counsel them regarding the meaning and health
13 implications of the results.

14 **P N.** If a juvenile has been adjudicated delinquent for an offense that
15 if committed by an adult would be an offense listed in § 41-1750, subsection
16 C, the court shall provide the department of public safety Arizona
17 automated fingerprint identification system established in § 41-2411 with
18 the juvenile's ten-print fingerprints, personal identification data and
19 other pertinent information. If a juvenile has been committed to the
20 department of juvenile corrections the department shall provide the
21 fingerprints and information required by this subsection to the Arizona
22 automated fingerprint identification system. If the juvenile's
23 fingerprints and information have been previously submitted to the Arizona
24 automated fingerprint identification system the information is not
25 required to be resubmitted.

26 **Q O.** Access to fingerprint records submitted pursuant to subsection P of
27 this section shall be limited to the administration of criminal justice
28 as defined in § 41-1750. Dissemination of fingerprint information shall
29 be limited to the name of the juvenile, juvenile case number, date of
30 adjudication and court of adjudication.

31 **R P.** If a juvenile is adjudicated delinquent for an offense that if
32 committed by an adult would be a misdemeanor, the court may prohibit the
33 juvenile from carrying or possessing a firearm while the juvenile is under
34 the jurisdiction of the department of juvenile corrections or the juvenile
35 court.

36 **S Q.** If a juvenile is adjudicated delinquent for a violation of § 13-1602,
37 subsection A, paragraph 5, the court shall order the juvenile to pay a
38 fine of at least three hundred dollars but not more than one thousand
39 dollars. Any restitution ordered shall be paid in accordance with § 13-809,
40 subsection A. The court may order the juvenile to perform community
41 restitution in lieu of the payment for all or part of the fine if it is
42 in the best interests of the juvenile. The amount of community restitution

1 shall be equivalent to the amount of the fine by crediting any service
2 performed at a rate of ten dollars per hour. If the juvenile is convicted
3 of a second or subsequent violation of § 13-1602, subsection A, paragraph
4 5 and is ordered to perform community restitution, the court may order
5 the parent or guardian of the juvenile to assist the juvenile in the
6 performance of the community restitution if both of the following apply:

- 7 1. The parent or guardian had knowledge that the juvenile intended to
8 engage in or was engaging in the conduct that gave rise to the violation.
- 9 2. The parent or guardian knowingly provided the juvenile with the means
10 to engage in the conduct that gave rise to the violation.

11 **F R.** If a juvenile is adjudicated delinquent for an offense involving the
12 purchase, possession or consumption of spirituous liquor or a violation
13 of title 13, chapter 34² and is placed on juvenile probation, the court
14 may order the juvenile to submit to random drug and alcohol testing at
15 least two times per week as a condition of probation.

16 ~~U. A juvenile who is adjudicated delinquent for an offense involving the
17 purchase, possession or consumption of spirituous liquor or a violation
18 of title 13, chapter 34, who is placed on juvenile probation and who is
19 found to have consumed any spirituous liquor or to have used any drug listed
20 in § 13-3401 while on probation is in violation of the juvenile's
21 probation. If a juvenile commits a third or subsequent violation of a
22 condition of probation as prescribed by this subsection, the juvenile
23 shall be brought before the juvenile court and, if the allegations are
24 proven, the court shall either revoke probation and hold a disposition
25 hearing pursuant to this section or select additional conditions of
26 probation as it deems necessary, including detention, global position
27 system monitoring, additional alcohol or drug treatment, community
28 restitution, additional drug or alcohol testing or a monetary assessment.~~

29 **S V.** If jurisdiction of the juvenile court is retained pursuant to § 8-202,
30 subsection H, the court shall order continued probation supervision and
31 treatment services until a child who has been adjudicated a delinquent
32 juvenile reaches nineteen years of age or until otherwise terminated by
33 the court. The court may terminate continued probation supervision or
34 treatment services before the child's nineteenth birthday if the court
35 determines that continued probation supervision or treatment is not
36 required or is not in the best interests of the juvenile or the state or
37 the juvenile commits a criminal offense after reaching eighteen years of
38 age.

39 **T W.** For the purposes of this section:

- 40 1. "First time felony juvenile offender" means a juvenile who is
41 adjudicated delinquent for an offense that would be a felony offense if
42 committed by an adult.

1 2. "Repeat felony juvenile offender" means a juvenile to whom both of the
2 following apply:
3 (a) Is adjudicated delinquent for an offense that would be a felony offense
4 if committed by an adult.
5 (b) Previously has been adjudicated a first time felony juvenile offender.
6 3. "Sexual offense" means oral sexual contact, sexual contact or sexual
7 intercourse as defined in § 13-1401.

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ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 7: Administrative Office of the Court Programs
Chapter 1: Dependent Children's Services
Section 7-101: Court Appointed Special Advocate Program

A. Definitions. In this section, the following definitions apply:

“Administrative director” means the administrative director of the Administrative Office of the Courts and the director’s designee.

“Assigned judge” means the judge who hears a particular dependency case to which a Court Appointed Special Advocate (CASA) volunteer is appointed.

~~“CASA” means Court Appointed Special Advocate.~~

“CASA coordinator” means the position that supervises CASA volunteers in the county program.

“CASA volunteer” means the individual volunteer, certified pursuant to this Arizona Code of Judicial Administration (ACJA) § 7-101, and appointed by the presiding judge of the juvenile court.

“Child welfare agency” or “agency”:

(a) Means:

- (i) Any agency or institution that is maintained by a person, firm, corporation, association or organization to receive children for care and maintenance or for twenty-four hour social, emotional or educational supervised care or who have been adjudicated as a delinquent or dependent child.
- (ii) Any institution that provides care for unmarried mothers and their children.
- (iii) Any agency maintained by this state, a political subdivision of this state or a person, firm, corporation, association or organization to place children or unmarried mothers in a foster home.
- (b) Does not include state operated institutions or facilities, detention facilities for children established by law, health care institutions that are licensed by the department of health services pursuant to title 36, chapter 4 or private agencies that exclusively provide children with social enrichment or recreational opportunities that do not use restrictive behavior management techniques.

as provided in A.R.S. § 8-501(2).

“Complaint” means a written statement regarding a volunteer alleging behavior that if substantiated would amount to a violation of statute, regulations, court rules or ACJA § 7-101.

“County program staff” means all CASA county coordinators, and county support staff, and any other individuals who are assigned to work within of the CASA program.

~~“DCATS” means Dependent Children Automated Tracking System, a database system.~~

~~“Disposition” means the final outcome of a criminal charge.~~

~~“Director” means the administrative director of the Administrative Office of the Court and the director’s designee.~~

“Division director” means the director of the Dependent Children’s Services Division of the AOC or the division director’s designee.

“In camera inspection” means a judge’s inspection in chambers of a document which is the subject of a request for disclosure before ruling on its release.

“Lawfully admitted for permanent residence” means the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed, as provided in 8 U.S.C.A. §1101(20).

“Manager” means the program manager of the CASA program administered by the Administrative Office of the Courts.

“Presiding juvenile judge” means the presiding judge of the juvenile court in each county.

“State program CASA office” means the office responsible to administer the CASA program statewide.

“Subpoena” means a court order compelling a person or representative of an organization to testify and/or produce records on a certain date at a certain place.

B. Applicability.

1. ~~The CASA program is established in the Administrative Office of the Court. Pursuant to A.R.S. § 8-523 the program shall establish local CASA programs in each county. The supreme court is to adopt rules prescribing the establishment of local programs and the minimum performance standards of these programs. Pursuant to A.R.S. § 8-523(A), “The court appointed special advocate program is established in the administrative office of the supreme court. The program shall establish local special advocate programs in each county. The supreme court shall adopt rules prescribing the establishment of local programs and the minimum performance standards of these programs.”~~

2. Pursuant to A.R.S. § 8-522(B) “~~¶~~The supreme court shall certify special advocates pursuant to rules adopted by the court. Court rules for certification shall include compliance with qualification standards prescribed by the court.”

C. Purpose. The purpose of the CASA program is to administer and provide oversight to a community-based volunteer advocacy program in the juvenile court for abused and neglected children.

D. General Administration.

1. Pursuant to A.R.S. § 8-522, ~~t~~The supreme court shall administer ~~and maintain~~ the CASA program. ~~The court shall adopt rules and procedures necessary to implement the program, including qualification standards.~~
2. ~~The director shall prepare fiscal projections, create a budget, allocate and expend funds for administrative costs and projects associated with the CASA program. The director is authorized to execute funding agreements and approve distribution to local programs.~~ Pursuant to A.R.S. § 8-523(B) “The supreme court shall employ administrative and other personnel it determines are necessary to properly administer the program and to monitor local program performance.” At a minimum, the monitoring shall take place through an operational review and shall assess each program’s compliance with:
 - a. Arizona statutes, Rules of Procedure for the Juvenile Court, administrative orders, ACJA § 7-101, other applicable ACJA sections, and program policies and procedures; and
 - b. Case and volunteer file standards.
3. ~~The director shall appoint a manager. The manager shall oversee the implementation and administration of the CASA program which includes the daily management and supervision of state program office staff. The manager shall oversee the development and maintenance of all program performance criteria to include policies, procedures, recommended job descriptions, manuals, and other necessary materials. The administrative director is authorized to adopt, by administrative directive, CASA program policies and any amendments to the policies.~~
4. ~~The manager shall oversee training for all staff to include state program office staff, county program staff, and volunteers~~
54. ~~The state program office shall obtain and review all applicant criminal history records from the Department of Public Safety (DPS). Based upon this review the state program office shall:~~ Under the supervision of the Administrative Director, the division director shall prepare fiscal projections, create a budget, allocate and expend funds for administrative costs and projects associated with the CASA program.

- a. ~~Indicate the applicant has successfully completed this aspect of the screening process;~~
 - b. ~~Forward the information to the county program office where the applicant is required to provide additional information before continuing the screening process;~~
 - c. ~~Recommend denial of certification of the applicant if the applicant has not successfully completed this aspect of the screening process.~~
65. ~~The state program office shall obtain, review, and make recommendations to the county program office regarding all applicant Department of Motor Vehicle (MVD) record information. The division director shall appoint a manager. The manager shall oversee the implementation and administration of the CASA program which includes the daily management and supervision of state CASA office staff. The manager shall oversee the development and maintenance of all program performance criteria to include policies, procedures, recommended job descriptions, manuals, and other necessary materials.~~
76. ~~The state program office obtains, reviews, and makes recommendations regarding certification based on the review of the Department of Economic Security (DES) central registry. The manager shall oversee training for all staff to include state CASA program staff, county program staff, and volunteers.~~
87. ~~The manager shall maintain a central list of all certified volunteers and issue them identification badges. The state CASA office shall facilitate the fingerprint process through the Department of Public Safety (DPS), pursuant to A.R.S. § 8-522(B) and as prescribed in policy.~~
98. ~~The manager may conduct investigations as specified in 7-101(N) of this code section. The state CASA office shall obtain, review, and advise the county program office regarding the results of all applicant Department of Motor Vehicle (MVD) record information pursuant to A.R.S. § 8-522(B) and as prescribed in policy.~~
109. ~~The manager shall review all county programs. At a minimum the review shall assess each program's compliance with: The state CASA office shall obtain, review, and advise the county program office regarding the results obtained on the review of the Department of Child Safety (DCS) central registry pursuant to A.R.S. § 8-522(B) and as prescribed in policy.~~
- a. ~~Arizona statutes, Rules of Procedure for the Juvenile Court, administrative orders, rules, this code, and program policies and procedures; and~~
 - b. ~~Case and volunteer file standards.~~

~~1110. The state and county program staff shall not solicit donations. The state CASA office shall maintain a central list of all certified volunteers and issue them identification badges.~~

~~1211. All state and county program staff and volunteers shall comply with applicable statutes described in A.R.S. § 8-807, § 41-1959, Arizona Rules of Court, including, but not limited to Rule 123, Rules of the Supreme Court, and administrative rules regarding confidentiality. The state and county program staff shall not solicit donations.~~

12. All state office and county program staff and volunteers shall comply with applicable statutes including, but not limited, to A.R.S. § 8-807, § 41-1959, Arizona Rules of Court, including, but not limited to Rule 123, Rules of the Supreme Court, Rules of Procedure for the Juvenile Court, ACJA § 7-101, other applicable ACJA sections, and administrative rules regarding confidentiality.

E. Budget Request Preparation. A.R.S. § 8-524(B) provides; “A court may request fund monies by submitting a program plan and funding request to the supreme court pursuant to rules adopted by the court.” The presiding judge or designee shall submit in writing to the director or designee a budget request and program plan to establish and maintain a county program. The manager shall annually supply each presiding judge or designee a budget funding request form and program plan other required forms together with instructions for applying for funds appropriated to the supreme court pursuant to A.R.S. § 8-524. To the extent funds are available, the director shall allocate funds ~~to meet the need for certifying volunteers~~ “to operate, improve, maintain and enhance the program”, pursuant to A.R.S. § ~~8-522(B)~~ 8-524(A).

F. Program Plan and Financial Management.

1. The county program shall:

- a. ~~Provide to the manager an annual budget request and program plan;~~ Adhere to the funding agreement issued upon approval of the plan submitted pursuant to A.R.S. § 8-524(B).
- b. ~~Submit quarterly progress reports to the state program office by the 5th day of the new quarter (October, January, April, and July);~~ The administrative director may re-allocate funds during the year based on the documented need, current use of funds and approved plan for budget modifications.
- c. ~~Submit quarterly financial statements to the state program office by the 30th day of the new quarter (October, January, and April);~~
- d. ~~Submit a closing financial statement (year end) to the state program office by August 15. Revertment shall be received annually at the state program office by August 31; and~~

- e. ~~Provide additional financial reports as directed by the manager (for example, "mid-year vacancy savings report").~~
2. The county program staff shall enter all ~~DCATS~~ required statistical information on cases and volunteers into a statewide database approved by the administrative director, on at least a monthly basis. The AOC will specify required statistics for reporting.
3. Pursuant to A.R.S. § 8-522(D) "A special advocate serves without compensation but is entitled to reimbursement of expenses pursuant to guidelines prescribed by the supreme court by rule." The ~~county program staff~~ CASA coordinator shall reimburse volunteers for per diem and mileage costs for attending the mandatory ~~initial orientation~~ pre-service training, to the extent funds are available and according to state travel policies. The ~~county~~ CASA coordinator may authorize reimbursement for volunteer training and extraordinary travel expenditures if funds are available, and according to state travel policies.

G. County Program Operations.

1. ~~The county program shall give priority to appointment of volunteers in dependency matters over delinquency or incorrigibility matters.~~ The presiding juvenile judge shall have authority over the local CASA program in each county. The CASA county program staff shall report to the presiding judge of the juvenile court.
 - a. All county program staff and volunteers shall comply with this code, ACJA §1-303: Code of Conduct for Judicial Employees, and other applicable code sections and the program policies. All county program staff and volunteers shall avoid any action which could adversely affect the confidence of the public in the integrity of the CASA program. They shall not conduct themselves in a manner that would reflect adversely on the judiciary, the courts, or other agencies involved in the administration of justice.
 - b. All county program staff and volunteers shall receive a copy of this code, ACJA § 1-303: Code of Conduct for Judicial Employees, and CASA program policies. Each county program staff and volunteer shall sign and date an acknowledgement of receipt and agreement to comply with these documents. The signed acknowledgement shall be placed in the staff member or volunteer's file.
2. ~~The program shall screen every dependency case, and any delinquency case if referred, to determine if the case is appropriate for appointment to a volunteer and to make effective matches of volunteers to cases.~~ Each case shall be screened following a procedure approved by the presiding juvenile judge.
3. ~~An outside individual or agency (for example: DES, attorneys, private parties, law enforcement, etc.) shall not review any volunteer or case files unless a subpoena and an order of the presiding judge or designee has been issued.~~ Pursuant to Rules of Procedure for

Juvenile Court, Rule 3, “The court may appoint a volunteer special advocate in dependency, guardianship, termination, delinquency and incorrigibility actions, to assist and advocate for the child, to assure that all appropriate services are made available to the child and otherwise to protect the best interests of the child in the action.”

4. ~~Upon receipt of a subpoena, the county coordinator shall deliver a complete duplicate of the file to the presiding judge or designee for *in camera* inspection. The county coordinator shall not permit a file to be viewed without an order. The county program shall make effective matches of volunteers to cases and shall give priority to appointment of volunteers in dependency matters over delinquency or incorrigibility matters.~~
5. ~~If a CASA volunteer testifies at a hearing before a judge or at a jury trial and uses contact logs or any portion of the volunteer's file that have not been the subject of a subpoena, any disclosure to the parties shall be ordered by the court. The CASA coordinator shall not assign a volunteer more than two cases at one time. The CASA coordinator may make and document an exception for good cause. Under the exception, a CASA coordinator shall not assign a volunteer to more than five cases at one time.~~
6. ~~If county staff or volunteers suspect the safety and well-being of a child is at risk, they shall report that information immediately to CPS as mandated in A.R.S. § 13-3620. A.R.S. § 8-522(F) provides:~~

A special advocate shall have access to all documents and information regarding the child and the child’s family without obtaining prior approval of the child, the child’s family or the court. All records and information the special advocate acquires, reviews or provides may only be disclosed as provided in section 41-1959.

7. ~~The county coordinator shall ensure that upon voluntarily or involuntarily leaving the program, volunteers return identification badges and all case related materials. An outside individual or agency (for example: DCS, attorneys, private parties, law enforcement, etc.) shall not review any volunteer or CASA case files unless a subpoena is served and an order of the presiding juvenile judge or designee has been issued, pursuant to A.R.S. § 8-522(F).~~
8. ~~The county coordinator shall not accept appointment as a CASA volunteer. The CASA volunteer shall not testify in a deposition, hearing or trial regarding information obtained in the course of their appointment unless a subpoena is served and a court order is issued. Upon receipt of a subpoena for records, the CASA coordinator or designee shall deliver a complete duplicate of any documents related to the subpoena and kept by the CASA volunteer to the presiding judge or designee for *in camera* inspection. The CASA coordinator shall not permit a file to be viewed without an order.~~

9. ~~The county program shall review, maintain, and take action regarding MVD records as required by the state program office. If a CASA volunteer testifies at a deposition, hearing, or trial before a judge and uses contact logs or any portion of the volunteer's file that have been the subject of a subpoena, any disclosure to the parties shall be ordered by the court.~~
10. ~~The county program shall submit completed applicant fingerprint cards to the DPS for a criminal history records check, pursuant to A.R.S. § 41-1750, 28 CFR, Part 20, and any other applicable federal laws. The CASA coordinator shall ensure the following incidents are reported to the appropriate authorities:~~
 - a. If the CASA coordinator is notified by a volunteer who reasonably believes that a child is in imminent danger or is, or has been, the victim of physical injury, abuse, a reportable offense or neglect.
 - b. The CASA coordinator is notified that there is an allegation of abuse or neglect against a volunteer.
11. ~~In the event that definitive fingerprints are not obtainable, the county coordinator shall require the applicant to make a written statement, under oath, that the applicant has not been arrested, charged, indicted, convicted of or pled guilty to any felony or misdemeanor, other than as disclosed on the application, through the interview process, or polygraph exam. The county coordinator has the option to recommend that certification of a volunteer be granted or denied, even if this statement is provided. The CASA coordinator shall make every reasonable effort to ensure that upon voluntarily or involuntarily leaving the program, volunteers return identification badges and all case related materials.~~
12. ~~If a volunteer has a record of conviction of a violation of A.R.S. § 28-1381, § 28-1382, or § 28-1383 driving under the influence (DUI), the county program shall prohibit the volunteer from driving any vehicle to transport children, staff, or any other individuals in the course and scope of CASA duties for a period of no less than five (5) years. The CASA coordinator shall not accept appointment as a CASA volunteer.~~
13. ~~All county program staff and volunteers shall adhere to the ACJA § 7-101, the CASA code of conduct attached hereto and incorporated herein as Appendix A, and the program policies. If a volunteer has a record of conviction of a violation of A.R.S. §§ 28-1381, 28-1382, or 28-1383 [driving under the influence (DUI)] the county program shall prohibit the volunteer from driving any vehicle to transport children, staff, or any other individuals in the course and scope of CASA duties for a period of no less than five (5) years from the date of conviction.~~
 - a. ~~All county program staff and volunteers shall receive a copy of this code section and CASA program policies and procedures. Each county program staff and volunteer shall sign and date an acknowledgment of receipt and agreement to comply with these~~

~~documents. The signed acknowledgment shall be placed in the staff member or volunteer's file.~~

~~b. All county program staff and volunteers shall avoid any action which could adversely affect the confidence of the public in the integrity of the CASA program. They shall not conduct themselves in a manner that would reflect adversely on the judiciary, the courts, or other agencies involved in the administration of justice.~~

14. All county program staff shall immediately notify the ~~county~~ CASA coordinator, county program manager, or supervisor and volunteers shall immediately notify the ~~county~~ CASA coordinator if:

a. They are the subject of an allegation or investigation in any criminal matter,

b. They have been arrested or charged in any criminal matter;

c. It is alleged in a civil, probate, domestic relations, or dependency matter or other court case that they have sexually assaulted, exploited, or physically abused any child or vulnerable adult;

d. They have been found in any professional licensing disciplinary board's final decision to have sexually or physically abused or exploited any minor, developmentally disabled person, or vulnerable adult;

e. They have engaged in an act listed in I(2)(a)-(d);

f. They are currently awaiting trial for criminal offenses listed in ACJA § 7-101 (I)(1)(d)(e) and (f)(g)(h) and I(2)(b)(c) and (e) of this code in this state or in another state or jurisdiction; and, or

g. ~~They have been convicted of a criminal offense listed in I(e)(f)(g)(h).~~ They have engaged in any behavior listed in I(1)(h)(i)(j)(k)(l)(m)(n) and (o) ACJA § 7-101(I)(1)(g)(h)(i)(j) and (k) of this code.

15. Either the ~~county~~ CASA coordinator, county program manager, or supervisor shall immediately notify the state CASA program office manager if:

a. They are the subject of any action listed in 14 (a-g) above; and, or

b. County program staff or volunteers have reported to the ~~county~~ CASA coordinator, county program manager, or supervisor that they are the subject of an action listed in 14 (a-g) above.

16. County program staff using county computers shall adhere to the ACJA § 1-503; Electronic Communications. ~~CASA volunteers shall not transmit confidential information via home computers unless transmission is through the Administrative Office of the Courts (AOC) secure web server.~~
17. Access to records of applicants and volunteers. Unless otherwise provided by law, the following shall apply to applicant and volunteer records:
 - a. Program records regarding applicants and volunteers shall not be open to applicants, volunteers, or the public. This includes, but is not limited to, the application, polygraph examination, interview notes, criminal history record information, DCS central registry information check, personal references, and MVD record check.
 - b. Upon request, the county program shall provide an applicant or volunteer with a copy of the applicant's or volunteer's individual application. Notes and work product of county staff are confidential and shall not be provided.
18. The CASA coordinator is responsible for discussing and reviewing the court report with the volunteer, prior to the county program staff submitting the report to the court.
19. The CASA coordinator must not alter court reports without the consent of the volunteer.
20. CASA Court Reports shall contain the following language as it appears here:

“THIS DOCUMENT IS DISCLOSED PURSUANT TO RULE 44(A)(3), RULES OF PROCEDURE OF THE JUVENILE COURT, AND IS OTHERWISE CONFIDENTIAL PURSUANT TO A.R.S. § 8-522(F), RULE 47(A), RULES OF PROCEDURE OF THE JUVENILE COURT, AND ACJA § 7-101(G). THIS DOCUMENT CANNOT BE DISCLOSED EXCEPT UPON ORDER OF THE COURT OR AS OTHERWISE PROVIDED BY LAW.”

H. Initial Certification and Application Process.

1. Qualifications of the Volunteer. A volunteer shall meet the following qualifications:
 - a. U.S. citizen or lawfully admitted for permanent residence legal resident; ~~legal resident~~;
 - b. Not employed by ~~DES~~ DCS, the juvenile court, or child welfare agencies, unless specifically authorized by the presiding juvenile court judge; and ~~court~~
 - c. At least twenty-one years of age.

2. Volunteer Application Process. A volunteer shall complete the following application process within ~~ninety (90)~~ one hundred and twenty (120) days of the application date unless a good cause extension is obtained from the ~~county~~ CASA coordinator and is documented in the volunteer file:
 - a. Complete an application;
 - b. ~~Provide the program with a readable fingerprint card or a notarized criminal disclosure statement as provided in subsection (G)(11) if definitive fingerprints are not obtainable. If the criminal history results do not show a disposition, it is the applicant's obligation to obtain documentation regarding the disposition which is acceptable to the program;~~ Authorize the CASA program to secure a criminal history record check, MVD record check, and DCS Central Registry information check as permitted by state and federal laws;
 - c. ~~Complete a personal interview with the county coordinator;~~ Provide the program with a readable fingerprint card;
 - d. ~~Provide three non-relative personal references;~~ In the event definitive fingerprints are not obtainable, the county program shall require the applicant to make a written statement, under oath, that the applicant has not been arrested, charged, indicted, convicted of or plead guilty to any felony or misdemeanor, other than as disclosed on the application, through the interview process, or polygraph exam. The CASA coordinator has the option to recommend that certification of a volunteer be granted or denied, even if this statement is provided;
 - e. ~~Complete a polygraph examination~~ personal interview with the CASA coordinator;
 - f. ~~Sign and date a statement indicating the volunteer has read, understands, and shall comply with all statutes, Arizona Rules of Court, this code, administrative orders, and policies and procedures of the CASA program;~~ Provide three non-relative personal references;
 - g. ~~Sign and date a pre-screening criteria form;~~ Complete a polygraph examination;
 - h. ~~Attend 30 hours of initial Orientation Training (OT);~~ and Sign and date an acknowledgement indicating the volunteer has read, and will abide by the statutes, Arizona Rules of Court, this code, the Code of Conduct for Judicial Employees, administrative orders, and policies and procedures of the CASA program; and
 - i. ~~Authorize the CASA program to secure a criminal history record check, MVD record check, and DES central registry information check as permitted by state and federal laws.~~ Attend 30 hours of pre-service advocacy training as established by the AOC.

3. The CASA program shall ~~reject~~ deny the applicant if the applicant refuses to authorize a release of information to complete background checks.
4. Notification of Certification. The county ~~coordinator~~ program shall promptly notify the applicant accepted for certification ~~in accordance with this code section.~~
5. Volunteers who have been certified to enter the program and who intend to transport children shall: ~~at all times maintain current automobile coverage. Volunteers shall provide proof of automobile insurance and any additional requirements set by the AOC to the county program office on an annual basis.~~
 - a. Sign a statement of intent to transport children;
 - b. At all times maintain current automobile insurance coverage as required by Arizona law and provide proof of insurance annually to the county program office;
 - c. Ensure their automobile insurance carrier is kept apprised that they will be transporting children in the course of their CASA volunteer duty;
 - d. Obtain permission of the child's legal guardian, custodial guardian, or placement; and
 - e. Be informed of the potential personal risk of liability.
6. ~~Access to records of applicants and volunteers. Unless otherwise provided by law, the following shall apply to applicant and volunteer records:~~
 - a. ~~Program records regarding applicants and volunteers shall not be open to applicants, volunteers, or the public. This includes, but is not limited to, the application, polygraph examination, interview notes, criminal history record information, DES central registry information check, personal references, and MVD record check.~~
 - b. ~~Upon request, the county program shall provide an applicant or volunteer with a copy of the applicant's or volunteer's individual application. Notes or work product of county staff shall be redacted.~~
 - e. ~~The county coordinator shall notify applicants or volunteers of the general facts regarding a finding without providing specific information on the following:~~
 1. ~~Criminal record;~~
 2. ~~Negative MVD record; or~~
 3. ~~Record in the DES central registry.~~

I. Denial of Certification.

1. The ~~county~~ CASA coordinator shall deny certification if any of the following conditions exist:
 - a. The applicant has not completed any aspect of the application process;
 - b. ~~The applicant has not been fingerprinted, the county coordinator has not received the criminal background check, MVD records check, or the DES central registry information check;~~ completed the application process, including pre-service training, within one hundred twenty (120) days and has not been granted good cause extension by the CASA coordinator.
 - ~~c. The applicant has not completed the training requirements;~~
 - ~~d.~~ The applicant materially misrepresented facts or committed fraud in the application process;
 - ~~e.~~ The applicant is awaiting trial for criminal offenses in this state, or another state or jurisdiction or has been convicted of any of the following criminal offenses, as an adult or similar offenses in this state, another state or jurisdiction:
 - (1) Sexual abuse of a minor
 - (2) Incest
 - (3) First or second degree murder
 - (4) Kidnapping
 - (5) Arson
 - (6) Sexual assault
 - (7) Sexual exploitation of a minor
 - (8) ~~Felony offenses involving~~ Contributing to the delinquency of a minor
 - (9) Commercial sexual exploitation of a minor
 - (10) ~~Felony offenses involving sale, distribution or transportation of, offer to sell, transport or distribute or conspiracy to sell, transport or distribute of marijuana, dangerous drugs or narcotic drugs~~
 - (11) ~~Felony offenses involving the possession or use of marijuana, dangerous drugs, or narcotic drugs~~ Burglary
 - (12) ~~Burglary~~ Robbery
 - (13) ~~Aggravated or armed robbery~~ A dangerous crime against children pursuant to § 13-705
 - (14) ~~Robbery~~ Child abuse
 - (15) ~~A dangerous crime against children as defined in §13-604.01~~ Sexual conduct with a minor

- ~~(16) Child abuse~~
- ~~(17) Sexual conduct with a minor~~
- ~~(18) Molestation of a child~~
- ~~(19) Manslaughter~~
- ~~(20) Assault or aggravated assault~~
- ~~(21) Exploitation of minors involving drug offenses~~
- ~~(22) Offenses involving domestic violence~~
- ~~(23) Sexual abuse of a vulnerable adult~~

- ~~fe.~~ The applicant has charges pending in this state or another state or jurisdiction for a felony or misdemeanor involving a sex offense, child abuse or neglect, or related acts that would pose risks to children served by the CASA program and the program's credibility.
- ~~gf.~~ The applicant has been found to have been convicted of a felony or misdemeanor, in this state or another state or jurisdiction, involving a sex offense, child abuse, neglect, related acts or any other crimes against children.
- ~~hg.~~ The applicant is the subject of allegations in a civil, probate, domestic relations, or dependency complaint in this state or another state or jurisdiction, or has been found in any civil probate, domestic relations, dependency or other court matter to have:
 - (1) Sexually abused or assaulted;
 - (2) Physically abused or assaulted; or
 - (3) Financially exploited any child or vulnerable adult person.
- ~~ih.~~ The applicant has been found in any professional licensing disciplinary board's final decision to have:
 - (1) Sexually abused or assaulted;
 - (2) Physically abused or assaulted; or
 - (3) Financially exploited any child or vulnerable adult person.
- ~~ji.~~ The applicant is currently a waiting trial for criminal offenses in this state or in another state or jurisdiction as listed in subsections I(1)(e)(f)(g)(h) and I(2)(b)(c)(e) using or has used within the past two (2) years any non-prescribed controlled substances and/or illegal drugs, including the illegal use of marijuana.
- ~~kj.~~ The applicant is currently using or has used within the past two (2) years any non-prescribed controlled substances and/or illegal drugs, including marijuana the parent or guardian of a child currently in the dependency process or adjudicated to be dependent.

- ~~h.~~ The applicant is the parent or guardian of a child currently in the dependency process or adjudicated to be dependent has a record in the DCS central registry of substantiated acts of abuse or neglect.
 - ~~m.~~ The applicant or volunteer has a record in the DES central registry of substantiated acts of abuse or neglect.
2. The ~~county~~ CASA coordinator may deny or recommend denial of certification if one or more of the following is found:
- a. The applicant has a record of any act constituting dishonesty or fraud;
 - b. The applicant has pending criminal felony charges in this state or another state or jurisdiction or has a record of conviction by final judgment of any felony not listed in I(1)(e);
 - c. The applicant has pending charges in this state or another state or jurisdiction for a criminal offense or has a record of conviction by final judgment of a misdemeanor involving moral turpitude or having a reasonable relationship to the duties of a CASA;
 - d. The applicant has been found civilly liable in an action involving fraud, misrepresentation, material omission, misappropriation, or conversion;
 - e. ~~The Applicant~~ has pending charges or has been convicted in this state or another state or jurisdiction related to driving under the influence in ~~been convicted of a violation of~~ A.R.S. § 28-1381, § 28-1382, § 28-1383; and, or
 - f. In determining whether to allow an applicant with the conduct or record of convictions listed in subsections (I)(2)(a-e) above to be certified, the ~~county~~ CASA coordinator shall consider the following:
 - (1) The extent of the person's criminal or conduct record;
 - (2) The length of time that has elapsed since the offense or conduct was committed;
 - (3) The nature of the offense or conduct;
 - (4) Any applicable mitigating circumstances;
 - (5) The degree to which the person participated in the offense or conduct;
 - (6) The extent of the person's rehabilitation, including:
 - (a) Completion of probation, parole or community supervision;
 - (b) Whether the person paid restitution or other compensation for the offense or conduct;
 - (c) Evidence of positive action to change the conduct or criminal behavior, such as completion of a drug treatment program or counseling; and
 - (d) Personal references attesting to the person's rehabilitation.

3. Notification of Denial.

- a. ~~The county CASA coordinator shall promptly notify the applicant denied certification in accordance with this code section. If the applicant is denied, only general reasons shall be given for the denial. If denial is due to a positive criminal history, that general fact may be disclosed. The CASA coordinator shall notify applicants of the general reasons regarding a denial without providing specific information.~~
- b. The applicant shall be advised that if the volunteer application is denied, the applicant may have the decision reviewed by the presiding juvenile court judge upon request.

J. Volunteer Status.

1. A volunteer serves at the pleasure of the court. The court may terminate the services of a volunteer without cause. ~~The county coordinator shall take action toward any volunteer not adhering to the minimum performance standards of the CASA program, which may include limitations on types of cases, suspension, or termination.~~
2. The CASA coordinator shall address any volunteer's failure to adhere to the minimum performance standards of the CASA program. The CASA coordinator shall make recommendations to the presiding juvenile judge regarding limitations on types of cases assigned to the volunteer, suspension or termination.
23. A volunteer shall have access to documents and information pursuant to A.R.S. § 8-522(F) as described in subsection G(6) of this code:

~~A special advocate shall have access to all documents and information regarding the child and the child's family without obtaining prior approval of the child, the child's family or the court. All records and information the special advocate acquires, reviews or produces may only be disclosed as provided for in § 41-1959.~~
34. A.R.S. § 8-522(G) provides for notice to the CASA volunteer as follows: "The special advocate shall receive notice of all hearings, staffings, investigations and other matters concerning the child. The special advocate shall have a right to participate in the formulation of any agreement, stipulation or case plan entered into regarding the child."
4. A volunteer shall be on active status if the volunteer engages in any of the following activities:
 - a. ~~Appointed to a dependency or juvenile probation case;~~
 - b. ~~Involved in the administrative aspect of the county program office;~~

- ~~e. Serving as a mentor to other volunteers; or~~
- ~~d. Otherwise regularly involved with the county program.~~
- 5. Volunteers who are active but not assigned cases, shall provide a minimum of three hours per month in organized program activities and shall document those activities monthly. A.R.S. § 8-522(H) provides: “A special advocate is immune from civil or criminal liability for the advocate’s acts or omissions in connection with the authorized responsibilities the special advocate performs in good faith.”
- 6. A volunteer shall be on active status if the volunteer is appointed to a dependency or juvenile probation case.
- 67. A volunteer may shall be placed on inactive active unassigned status if all of the following conditions are met the volunteer is:
 - a. Approved by the county coordinator, for no longer than six months; Pending a case assignment; or
 - b. Not currently appointed to a dependency or juvenile probation case; Serving as a mentor or peer coordinator to other volunteers.
 - ~~e. Not involved in the administrative aspect of the county program office;~~
 - ~~d. Not a mentor to other volunteers; and~~
 - ~~e. Not otherwise regularly involved with the county program.~~
- 78. While on inactive status, the A volunteer shall: be on administrative unassigned status if the volunteer is involved in the administrative aspect of the county program office.
 - ~~a. Provide performance based assessment reviews.~~
 - ~~b. Comply with the required in service training each calendar year.~~
- 9. Volunteers who are on active unassigned or administrative unassigned status shall provide a minimum of three hours per month in organized program activities and shall document those activities monthly.
- 10. A volunteer may be placed on inactive status if all of the following conditions are met:
 - a. Approved by the CASA coordinator, for no longer than six (6) months;

- b. Not currently appointed to a dependency or juvenile probation case;
- c. Not on active unassigned or administrative unassigned status pursuant to J(7) and (8).

K. Volunteer Minimum Performance Standards.

- 1. The volunteer shall ~~perform functions set out in A.R.S. § 8-522(E) and in state and local policies. A.R.S. § 8-522(E) provides~~ adhere to the following performance requirements:

- a. A.R.S. § 8-522(E) provides:

A special advocate shall:

a1. Meet with the child.

b2. Advocate for the child's safety as the first priority.

c3. Gather and provide independent, factual information to aid the court in making its decision regarding what is in the child's best interest and in determining if reasonable efforts have been made to prevent removal of the child from the child's home or to reunite the child with the child's family.

d4. Provide advocacy to ensure that appropriate case planning and services are provided for the child.

e5. Perform other duties prescribed by the supreme court by rule.

- b. Disclose to the CASA coordinator or court, before appointment:

(1) Any pre-existing relationship with a child or the child's family; or

(2) Any relation to any parties in the case; or

(3) Any employment or affiliation at any agency that might result in a conflict of interest.

- c. Accept appointments in dependency, guardianship, termination, delinquency, or incorrigibility actions pursuant to Rule 3, Rules of Procedure for the Juvenile Court and A.R.S. § 8-522(A).

- d. Accept appointment as guardian ad litem pursuant to A.R.S. § 8-221(I) and Rule 40, Rules of Procedure for the Juvenile Court and A.R.S. § 8-522(A).

- e. Comply with applicable statutes, including but not limited to, A.R.S. § 8-807, § 41-1959,

- Arizona Rules of Court; including, but not limited to Rule 123, Rules of the Supreme Court, Rules of Procedure for the Juvenile Court, administrative rules regarding confidentiality, ACJA 1-303; Code of Conduct for judicial employees, administrative orders, rules, this code, and program policies and procedures.
- f. Serve and respond to requests without bias of race, religion, sex, age, national origin, or physical impairment.
 - g. Use public resources, property, and funds under the volunteer's control responsibly and for the purpose intended by law and not for any private use.
 - h. Consult with the CASA coordinator to address any ethical issues that arise.
 - i. Perform authorized functions in a professional and impartial manner.
 - j. Provide a written report, previously discussed and reviewed with the CASA coordinator, prior to every hearing in a format and manner outlined in CASA program policies.
 - k. Attend all court hearings pertaining to the appointed case and provide information orally to the court when requested. The volunteer shall also provide sworn testimony to the court if subpoenaed as a witness or ordered by the court.
 - l. Meet in-person with the child once every (30) days at a minimum. An exception may be granted at the discretion of county program coordinator.
 - m. Monitor the child's placement and observe the child's behavior in the placement to assess the child's needs and identify any problems discovered in a written report to the court.
 - n. Inform the CASA coordinator promptly of urgent developments in the case so that the CASA coordinator staff can notify the court through appropriate means.
 - o. Consult at least monthly with the CASA coordinator in a case/program discussion, and document the discussion in the contact log.
 - p. Maintain an accurate and complete contact log on the case and provide the documentation on at least a monthly basis to the county program office.
 - q. Comply with the required in-service training each calendar year.
 - r. Return case files to the program after the case is closed.

- s. Sign and date an acknowledgement of receipt and agreement to comply with this code and CASA program policies and operational procedures. The signed acknowledgement shall be placed in the volunteer's file.
 - t. The volunteer who reasonably believes that a child is in imminent danger or is, or has been, the victim of physical injury, abuse, a reportable offense or neglect should report these observations to the appropriate authorities and inform the CASA coordinator.
 - u. Inform the CASA Coordinator promptly if the volunteer has been arrested, charged, indicted, convicted of, or pled guilty to any misdemeanor or felony since the applicant's last certification.
2. ~~A~~ The volunteer shall accept appointments in dependency, guardianship, termination, delinquency, and incorrigibility actions pursuant to Rule 3, Rules of Procedure for the Juvenile Court and A.R.S. § 8-522(A) not:-
- a. Be appointed to a case where the volunteer is related to any parties involved in the case.
 - b. Engage in the following activities:
 - (1) Give legal or medical advice;
 - (2) Provide therapeutic counseling;
 - (3) Provide health care services;
 - (4) Make placement arrangements for the child;
 - (5) Give expensive or excessive gifts to the child, the child's family or caregiver. The volunteer must consult with the CASA coordinator to define the value of a gift in the context of this code.
 - (6) Take the appointed child to any home other than the child's placement without notifying the CASA coordinator, and without receiving prior approval from the DCS supervisor or DCS case manager.
 - (7) Take the appointed child to the volunteer's home or permit the child to stay overnight with the volunteer, without receiving prior approval of the DCS supervisor, DCS case manager, CASA coordinator and a specific order from the court.
 - (8) Take the appointed child to isolated places involving only the CASA volunteer and the child; and
 - (9) Perform home studies for out-of-state or in-state agencies.
 - c. Transmit confidential information via home computers unless transmission is through the administrative office of the courts' secure web server or a secure web server provided by the county and approved by the administrative director.
 - d. Request or accept any fee or compensation in the course of CASA volunteer service.

- e. Use or attempt to use the volunteer's official position to secure unwarranted privileges or exemptions.
 - f. Testify in a deposition, hearing or trial regarding information obtained in the course of their appointment unless a subpoena is served and a court order is issued.
3. ~~A volunteer shall accept appointments as guardians ad litem pursuant to A.R.S. § 8-221(I) and Rule 40, Rules of Procedure for the Juvenile Court and A.R.S. § 8-522(A).~~ meet the following requirements for certification renewal:
- a. All volunteers must renew their certification every four years.
 - b. CASA coordinators shall ensure that a new criminal history background check is completed no earlier than three months prior to the expiration of a volunteer's first four years of service. The years of service shall be calculated from the date of initial certification. This renewal process shall continue every four years thereafter.
 - c. Volunteers shall submit a current authorization for the CASA program to secure a criminal history records check, MVD records check, and DCS central registry information check as permitted by state and federal laws.
 - d. The CASA coordinator may recertify a volunteer based on compliance with these requirements and based on the volunteer's continued ability to meet the initial certification requirements.
4. ~~A volunteer shall comply with Arizona statutes, Arizona Rules of Court, Rules of Procedure for the Juvenile Court, administrative orders, rules, this code, and program policies and procedures. The certification reinstatement process is only available to an applicant who has left the program for less than one year and is eligible for return. In order to obtain certification reinstatement the applicant shall submit a signed statement under oath that the applicant has not been arrested, charged, indicted, convicted of, or pled guilty to, any misdemeanor or felony since the applicant's last certification. The CASA coordinator may reinstate the volunteer's certification based on compliance with these requirements.~~
5. ~~A.R.S. § 8-522(H) provides: "A special advocate is immune from civil or criminal liability for the advocate's acts or omissions in connection with the authorized responsibilities the special advocate performs in good faith."~~
6. ~~A volunteer shall comply with state program policies regarding training requirements.~~
7. ~~A volunteer shall comply with state program policies regarding performance based assessment reviews.~~

L. Complaints, Discipline, and Dismissal of Volunteers. Recertification Process. ~~If a volunteer leaves the CASA program for up to one year and is eligible for return, the volunteer shall, at a minimum, attend the initial orientation training. If a volunteer leaves the program for more than one year and is eligible for return, the volunteer shall repeat the application process.~~

1. The presiding juvenile judge shall designate a person to be responsible for receiving, investigating, and processing complaints against CASA volunteers. This person shall be referred to as the Designated CASA Investigator (DCI). While processing the complaint, the DCI shall conform to all requirements set forth in this code and the CASA Policies and Procedures Manual.
2. A complaint shall be in writing with sufficient specificity to warrant further investigation. The name and telephone number of the complainant shall also be provided.
3. All judicial officers and state and county program staff shall, and any person may, notify the DCI if it appears that a volunteer has violated Arizona statutes, Rules of Court, including Rules of Procedure of the Juvenile Court, this code, administrative orders, rules, or program policies.
4. While an investigation is pending, the DCI may seek a temporary order from the assigned judge, suspending the volunteer from duties as a CASA in the appointed case or cases. Volunteers who are suspended may not be appointed to another case or volunteer in another capacity under this code until resolution of the complaint. The DCI shall seek immediate suspension of a volunteer under the following circumstances:
 - a. An allegation of child abuse and neglect against the volunteer.
 - b. Any allegation of conduct that would be grounds for mandatory or discretionary denial of certification.
5. Upon review of all evidence, the DCI shall make a report and recommendation to the presiding juvenile judge or designee for resolution of the complaint. The presiding juvenile judge or designee shall take action up to and including dismissal from the program and notify the DCI.
6. The CASA coordinator, or designee, shall document any complaints and resolutions in the volunteer file and take action necessary to follow up on the resolution. Information and documentation shall be confidential and available only for use in considering the volunteer's continuing certification as a CASA volunteer.
7. CASA volunteers serve at the pleasure of the presiding juvenile judge. Particular actions may require immediate termination or dismissal by the presiding juvenile judge. Such actions include but are not limited to:

- a. Taking action that endangers the child or is outside the role of the statutory authority of the CASA program;
 - b. Failing to adhere to the Arizona statutes, Arizona Rules of Court including the Rules of Procedure of the Juvenile Court, ACJA, administrative orders, rules and program policies;
 - c. Failing to demonstrate an ability to effectively carry out assigned duties;
 - d. Falsifying the application or misrepresenting facts during the screening process;
 - e. A finding against the volunteer of child abuse or neglect by a court order or any authorized governmental agency;
 - f. Existing conflict of interest which cannot be resolved;
 - g. Allowing the appointed child to visit the volunteer's home or stay overnight with the volunteer unless specifically ordered by the court;
 - h. Any action that would have required initial denial of certification as a CASA volunteer;
 - i. Exhibiting substance-induced impaired behavior while performing CASA duties; and
 - j. Using illegal drugs or alcohol while performing CASA duties.
8. A CASA volunteer shall be suspended immediately under the following circumstances:
- a. An allegation of child abuse and neglect against the volunteer;
 - b. An allegation of any conduct that would be grounds for mandatory or discretionary denial of certification.
9. A volunteer shall be dismissed immediately if there has been a judicial or administrative determination of abuse or neglect against the volunteer.
10. A volunteer shall be dismissed immediately if the volunteer uses illegal drugs or alcohol while performing CASA duties, or exhibits substance-induced impaired behavior while performing CASA duties.

M. Ongoing Requirements for Continuing Certification.

- ~~1. By December 31st every other calendar year starting with 2005 volunteers shall:~~

- a. ~~Sign a statement under oath that the volunteer has not been arrested, charged, indicted, convicted of, or pled guilty to, any felony or misdemeanor since the volunteer's last certification;~~
 - b. ~~Sign a statement that the volunteer has not engaged in any conduct that would be grounds to deny certification.~~
 - c. ~~Authorize the CASA program to secure a criminal history records check, MVD records check, and DES central registry information check as permitted by state and federal laws; and~~
 - d. ~~Provide proof of automobile insurance and any additional requirements set by the AOC if the volunteer is driving any vehicle to transport children, staff, or any other individuals in the course and scope of CASA duties.~~
2. ~~The county coordinator may recommend that the volunteer's certification continue based on the volunteer statement provided in compliance with M(1)(a-d).~~

~~N. Complaint Process.~~

1. ~~The structure of the CASA program allows complaints to come in at three different levels. Complaints may be made to the manager, presiding judge or designee, or the county coordinator.~~
2. ~~All judicial officers and state and county program staff shall, and any person may, notify the county coordinator if it appears that a volunteer has violated Arizona statutes, Rules of Court, including Rules of Procedure of the Juvenile Court, this code, administrative orders, rules, or program policies.~~
3. ~~All complaints shall be in writing with sufficient specificity to warrant further investigation. The name and telephone number of the complainant shall also be provided.~~
4. ~~Investigations may be conducted at any of the three levels designated in N(1) and may be for the following purposes:~~
 - a. ~~To determine whether a volunteer has violated this code section or other applicable statutes, rules, and policies;~~
 - b. ~~To determine whether a complaint is valid; or~~
 - c. ~~To secure information useful in the administration of the program or this code section.~~

- ~~5. While an investigation is pending, the county coordinator may seek a temporary order from the assigned judge, the presiding juvenile court judge, or designee, suspending the volunteer from duties as a CASA volunteer.~~
- ~~6. Any investigation under this provision shall be reported to all three levels designated in N(1).~~
- ~~7. Upon review of all evidence, the investigator shall make a report and recommendation to the presiding judge or designee for resolution of the complaint. The investigator, upon receiving judicial resolution of the complaint, shall inform the parties designated in N(1).~~
- ~~8. The county coordinator shall document any complaints in the volunteer's file and send a copy to the state program office. Information and documentation shall be confidential and available only for use in considering volunteer's continuing certification for review by the manager.~~
- ~~9. If the complaint involves alleged criminal activity as listed in, but not limited to, this code section, or immediate or potential danger to a child, the investigator shall promptly forward the written complaint and all other investigative progress reports to the parties designated in N(1).~~

~~O. Dismissal from Case or Termination of a Volunteer from Program.~~

- ~~1. Upon completion of the complaint process, the county coordinator shall refer any recommendation regarding discipline to the presiding judge or designee. The presiding judge or designee shall take action up to and including dismissal from the program.~~
- ~~2. Grounds for dismissal or termination of a volunteer from the program include but are not limited to:
 - ~~g. Taking action that endangers the child or is outside the role of the statutory authority of the CASA program;~~
 - ~~b. Failing to adhere to Arizona statutes, Rules of Court including the Procedures of the Juvenile Court, ACJA, administrative orders, rules, and program policies;~~
 - ~~b. Failing to demonstrate an ability to effectively carry out assigned duties;~~
 - ~~c. Falsifying the application or misrepresenting facts during the screening process;~~
 - ~~d. A finding against the volunteer of child abuse or neglect by a court or any authorized governmental agency;~~
 - ~~e. Existing conflict of interest which cannot be resolved;~~~~

- ~~f. Allowing the appointed child to visit the volunteer's home or stay overnight with the volunteer unless specifically ordered by the court; and~~
- ~~h. Any action that would have required initial denial of certification as a CASA volunteer.~~
- ~~3. A volunteer shall be suspended immediately following an allegation of existing child abuse and neglect against the volunteer.
 - ~~a. A volunteer shall be suspended immediately pending a determination of alleged child abuse or neglect;~~
 - ~~b. A volunteer shall be suspended immediately pending an investigation of an allegation of conduct that would be grounds for mandatory or discretionary denial of certification.~~~~
- ~~4. A volunteer shall be dismissed immediately if there has been a judicial or administrative determination of abuse or neglect.~~
- ~~5. A volunteer shall be dismissed immediately if the volunteer uses illegal drugs or alcohol while performing CASA duties.~~

Section 7-101: Court Appointed Special Advocate Program
Appendix A
Volunteer Code of Conduct

Preamble.—~~This Code of Conduct is adopted by the Arizona Supreme Court to apply to all certified Court Appointed Special Advocate (CASA) volunteers in the state of Arizona. The purpose of this code is to establish minimum standards for performance by certified CASA volunteers.~~

- ~~1. The volunteer shall perform only authorized responsibilities pursuant to A.R.S. § 8-522(e). Those responsibilities include:
 - ~~a. Meet with the child;~~
 - ~~b. Advocate for the child's safety as the first priority;~~
 - ~~c. Gather and provide independent, factual information to aid the court in making its decision regarding what is in the child's best interest and in determining if reasonable efforts have been made to prevent removal of the child from the child's home or to reunite the child with the child's family;~~
 - ~~d. Provide advocacy to ensure that appropriate case planning and services are provided for the child.~~~~
- ~~2. The volunteer who performs activities other than those authorized in (1)(a-d) above, shall only do so pursuant to supreme court rule.~~
- ~~3. The volunteer shall consult with the county coordinator to resolve any ethical issues that arise.~~
- ~~4. The volunteer shall serve and respond to requests without bias of race, religion, sex, age, national origin, or physical impairment.~~
- ~~5. Before appointment to a case the volunteer shall disclose to the county coordinator or court any pre-existing relationship with a child or the child's family that could be perceived as a conflict of interest.~~
- ~~6. The volunteer shall, at all times, perform authorized functions in a professional and impartial manner.~~
- ~~7. The volunteer shall not use or attempt to use the volunteer's official position to secure unwarranted privileges or exemptions.~~

- ~~8. The volunteer shall not request or accept any fee or compensation in the course of CASA volunteer service.~~
- ~~9. The volunteer shall use public resources, property, and funds under the volunteer's control responsibly and for the purpose intended by law and not for any private use.~~
- ~~10. The volunteer shall comply with applicable statutes described in A.R.S. § 8-707, § 41-1959, Arizona Rules of Court; including, but not limited to Rule 123, Rules of the Supreme Court, and Administrative Rules regarding confidentiality.~~
- ~~11. The volunteer shall not allow the appointed child to visit the volunteer's home or stay overnight with the volunteer unless specifically ordered by the court with prior approval of the CPS supervisor, CPS case manager, and county coordinator.~~
- ~~12. The volunteer shall not be related to any parties involved in the case or be employed in a position/or agency that might result in a conflict of interest.~~
- ~~13. The volunteer shall not engage in the following activities:
 - ~~a. Give legal or medical advice;~~
 - ~~b. Provide therapeutic counseling;~~
 - ~~c. Provide health care services;~~
 - ~~d. Make placement arrangements for the child;~~
 - ~~e. Give money or gifts of value over \$10 to the child or family;~~
 - ~~f. Solitary excursions to isolated places involving only the CASA volunteer and the appointed child; and~~
 - ~~g. Perform home studies for out of state or in state agencies.~~~~

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 7: Administrative Office of the Courts Programs
Chapter 1: Dependent Children's Services
Section 7-102: Foster Care Review

A. Definitions. In this section, the following definitions apply:

“*In camera* inspection” means a judge’s inspection in chambers of a document which is the subject of a request for disclosure before ruling on its release.

“Child” means “any person under eighteen years of age” as provided in A.R.S. § 8-101(4).

“Child Welfare Agency” ~~means~~

“(a) Means:

(i) Any agency or institution maintained by a person, firm, corporation, association or organization to receive children for care and maintenance or for twenty-four hour social, emotional or educational supervised care or who have been adjudicated as a delinquent or dependent child.

(ii) Any institution that provides care for unmarried mothers and their children.

(iii) Any agency that is maintained by ~~the~~ this state, ~~or~~ a political subdivision ~~thereof, of this state or~~ a person, firm, corporation, association, or organization to place children or unmarried mothers in a foster home.

(b) Does not include state operated institutions or facilities, detention facilities for children established by law, health care institutions ~~which~~ that are licensed by the department of health services pursuant to title 36, chapter 4 or private agencies that exclusively provide children with social enrichment or recreational opportunities and do not use restrictive behavior management techniques”.

as provided in A.R.S. § 8-501 (A)(~~1~~2)(a)(b).

~~“Local boards” are groups of three to five volunteers appointed by the presiding juvenile court judge to review cases of children in out-of-home placement.~~

“Out-of-home placement” means “~~...t~~[T]he placing of a child in the custody of an individual or agency other than with the child’s parent or legal guardian and includes placement in temporary custody pursuant to section 8-821, ~~subsection A or B~~, voluntary placement pursuant to section 8-806 or placement due to dependency actions.” as provided in A.R.S. § 8-501(A)(~~7~~9).

“Petition” means “~~...a~~[A] written statement of the essential facts that allege ... dependency” as provided in A.R.S. § 8-201(~~2~~7).

~~“Removal review team” means a group assembled for the purpose of assessing the propriety of taking a child from its parent or guardian.~~

~~“Parties” means “...a[A] child, parent, guardian, the Arizona Department of Economic Security Child Safety or petitioner, and any person or entity who has been permitted to intervene pursuant to Rule 24, Ariz. R. Civ. P., or the Indian Child Welfare Act as provided in Rule 37(A), Arizona Rules of Procedure for the Juvenile Court.~~

~~“Participants” means “...f[F]oster parents and any other person permitted by the court or authorized by law to participate in the proceedings” as provided in Rule 37(B), Arizona Rules of Procedure for the Juvenile Court.~~

B. Authority. ~~A.R.S. § 8-515.04 and A.R.S. § 8-515.01 and A.R.S. § 8-515.04 establish state and local foster care review boards and the state foster care review board and authorizes the supreme court to adopt rules relating to the function and procedures of the boards:~~

1. ~~State-Local Foster Care Review Boards.~~ A.R.S. § 8-515.0401(A) provides:

~~There is established within the supreme court the state foster care review board which shall be composed of seven persons with knowledge of the problems of foster care appointed by the supreme court and the members of the local foster care review boards appointed by the presiding judge of the juvenile court. In counties having only one foster care review board, the judge shall appoint one member. In counties having more than one foster care review board, the presiding judge of the juvenile court shall appoint to the state board only one member for every three boards. Terms of office of members of the state board, who are local board members, shall be coterminous with their terms as members of local review boards. Terms of office of members who are appointed by the supreme court shall be not less than two years, nor more than five years.~~

~~The presiding judge of the juvenile court in each county shall establish local foster care review boards for the review of cases of children who are in out-of-home placement and who are the subject of a dependency action to assist in the review required pursuant to section 8-862. The judge shall establish one board for each one hundred children, or fraction of that number. The judge may decide not to create an additional review board if the number of children assigned to a review board exceeds one hundred by fewer than fifty children.~~

2. ~~Local State Foster Care Review Boards.~~ A.R.S. § 8-515.0404(A) provides:

~~The presiding judge of the juvenile court in each county shall establish local foster care review boards for the review of cases of children who are in out-of-home placement and who are the subject of a dependency action to assist in the~~

~~review required pursuant to section 8-862. The judge shall establish one board for each one hundred children, or fraction of that number. The judge may decide not to create an additional review board if the number of children assigned to a review board exceeds one hundred by fewer than fifty children.~~

The state foster care review board is established within the supreme court consisting of three persons who have knowledge of the problems of foster care and who are appointed by the supreme court and of the members of the local foster care review boards who are appointed by the presiding judge of the juvenile court. In counties having only one foster care review board, the judge shall appoint one member. In counties having more than one foster care review board, the presiding judge of the juvenile court shall appoint to the state board only one member for every ten boards except that not more than six members may be appointed from any county. Members of the state board who are local board members shall serve terms that are coterminous with their terms as members of local review boards. Members who are appointed by the supreme court shall serve terms that are not less than two years, nor more than five years.

C. Purpose. Pursuant to A.R.S. § 8-515.04 01 and A.R.S. § 8-515.~~01~~04, the Foster Care Review Board (FCRB) program is established to administer a statewide system of reviews for children who are in out-of-home placement and who are the subject of a dependency action.

D. General Administration. A.R.S. § 8-515.04(D) provides: “The supreme court shall employ a coordinator and other personnel it deems necessary to carry out the duties of the state board and the local boards. Compensation for all personnel shall be determined pursuant to section 38-611.”

1. Program Manager. The director shall appoint a program manager (manager) to serve as statewide program coordinator pursuant to A.R.S. § 8-515.04(D). The manager shall:
 - a. Prepare fiscal ~~projects~~ projections, create a budget, allocate and expend funds for program;
 - b. Assist in the fiscal administration of the program;
 - c. Oversee training for all ~~staff including~~ FCRB state program office staff and volunteers;
 - d. Notify the presiding juvenile court judges of potential applicants to fill local board vacancies;
 - e. Work with the judges to recruit potential board members;

- f. ~~Work with the state board to develop its report, e~~Coordinate local boards, and develop training for FCRB program volunteers;
 - g. Review all board member applications prior to submission to the local juvenile court judge for appointment;
 - h. Provide training established pursuant to A.R.S. § 8-515.04(E) for review board members;
 - i. Maintain professional working relationships with the juvenile court judges, DES staff and other community groups; and
 - j. Cooperate with other agencies and states in regard to research projects dealing with foster care.
2. ~~The AOC, through the manager, shall review~~ monitor ~~all local FCRB programs to assess each county's the program, local boards, and the state board to ensure~~ compliance with state statutes, juvenile court rules, this section, and FCRB program policies and procedures.
 3. Under the direction of the administrative director and manager, program specialists shall facilitate the local boards and support standing and ad hoc committees of the state ~~FCRB and the local~~ boards.

E. State Foster Care Review Board. A.R.S. § 8-515.04(C) provides:

The state board shall meet no less than twice annually and more frequently ~~upon~~ the call of the chairman or as the board ~~shall~~ determines. The supreme court may adopt reasonable rules relating to the functions and procedures of the local boards and the state board in accordance with the duties of the boards as provided in this article. The state board shall review and coordinate the activities of the local boards ~~and make recommendations to the supreme court, the governor and the legislature on or before January 15 of each year regarding foster care statutes and policies and procedures.~~

1. Membership Responsibilities, ~~pursuant to A.R.S. § 8-515.04~~
 - a. “The state board shall select a chairman and a vice-chairman and other officers it deems necessary.” A.R.S. § 8-515.04(B) The chairman of the state board shall be elected for a two year term. If the chairman is also a local board chairman, the chairman shall automatically serve a two year term as a local board chairperson. All other officers of the state board shall have one year terms.

b. Supplemental Rules of the State Foster Care Review Board, Rule 3 provides:

The chairperson of the State Foster Care Review Board shall be elected for a two year term. If s/he is also a local board chairperson s/he shall automatically serve a two year term as a local board chairperson. All other officers of the State Foster Care Review Board shall have one year terms.

~~b.c.~~ “The state board shall establish training programs for local board members, which shall include periodic in-service training.” A.R.S. § 8-515.04(E)

2. Executive Committee. The state board shall create an executive committee consisting of the chairman, vice chairman, review board director, and up to five other members elected by the board. The executive committee shall also include two members from District I, one member from District II, two members from any district other than I or II, and two members from any district. The executive committee may act on the behalf of the state board between meetings, but actions of the executive committee on behalf of the state board shall require ratification for continuance by the board. Rule 3 of the Rules of Procedure for the Foster Care Review Boards provides:

(a) An executive committee of the State Board shall be created consisting of the chairman, vice-chairman, review board coordinator, and up to five other members elected by the board. The executive committee may act on the behalf of the State Board between meetings.

(b) The state board may appoint such committees as it deems necessary to conduct business.

(c) Actions of the executive committee on behalf of the state foster care review board shall require ratification for continuance by the board.

3. Composition of the Executive Committee. Rule 4 of the Supplemental Rules of the State Foster Care Review Board provides: “The composition of State Board members on the Executive Committee shall be:

Two members from District I

One member from District II

Two members from any District other than I or II

Two members from any District”

For the purposes of this code section, counties are defined as districts. District I is Maricopa County, District II is Pima County, and all other counties are designated as counties other than I or II.

34. Standing committees. Rule 3 (b) of the Rules for the Foster Care Review Boards provides: “The state board may appoint such committees as it deems necessary to conduct its business.” State board members shall participate on standing committees of the state board; ~~which shall include, but are not limited to, the annual report, advocacy and continuing education committees.~~ Chairmen of standing committees of the state board, appointed by the state board chairman, shall serve in an ad hoc capacity.
45. Compensation. “State board members shall be compensated as determined pursuant to title 38, chapter 4, article 2.” A.R.S. § 8-515.04(F)

F. Local Foster Care Review Boards.

1. Membership. A.R.S. § 8-515.01(A) provides that local foster care review boards “...s[S]hall consist of at least five regular members. The judge may appoint one alternate member for each board if deemed necessary. The alternate ~~board~~ member shall receive all case correspondence and reports and shall serve on the review board in the absence of one of the regular members.”
- a. Diversity. A.R.S. § 8-515.01(A) provides: “...Each board ~~shall~~, to the maximum extent feasible, shall represent the various socioeconomic, racial and ethnic groups of the county in which it serves. A list of the members of each local board shall be sent to the supreme court.”
- b. Prohibited Appointments. A.R.S. § 8-515.01(B) provides: “The presiding juvenile judge shall not appoint a person employed by the division, ~~and any child welfare agency~~ or the juvenile court to a local board.”
2. Term. A.R.S. § 8-515.01(C) provides:

“On the appointment of a new local board, regular board members shall divide themselves by lot into three classes as nearly equal in number as possible. Members of the first class shall serve for a term of one year, members of the second class shall serve for a term of two years and members of the third class shall serve for a term of three years.” All subsequent local board members, including alternate members, shall serve for a term of three years, except if a member has been appointed to fill a vacancy occasioned other than by the expiration of a full term of office. The term of each member shall expire on the third Monday in January of the appropriate year. Members shall continue to serve until a successor is appointed. In the event a vacancy occurs on the local board, the judge shall appoint another person to serve the unexpired portion of the term.

- a. ~~“All subsequent local board members, including alternate members shall serve for a term of three years, except if a member has been appointed to fill a vacancy occasioned other than by expiration of a full term of office.” A.R.S. § 8-515.01(C)~~
 - b. ~~“The term of each member shall expire on the third Monday in January of the appropriate year. Members shall continue to serve until a successor is appointed.” A.R.S. § 8-515.01(C)~~
 - c. ~~“In the event a vacancy occurs on the local board, the judge shall appoint another person to serve the unexpired portion of the term.” A.R.S. § 8-515.01(C)~~
3. Officers. A.R.S. § 8-515.01(E) provides: “Each local board shall elect a chairman and vice chairman and other officers as it deems necessary.”
- a. ~~Local boards elect local chairmen and vice chairmen for one year. The local boards shall hold elections at the first meeting after the third Monday in January of each year. In the event that all board positions are not filled at that time, the board may vote to postpone the election until their next meeting. A local board may re-elect local chairmen and vice chairmen. Rule 1 of the Supplemental Rules of the State Foster Care Review Board provides:~~
 - Local chairpersons and vice-chair persons are elected for one year. Elections will be held at the first meeting of the local boards following the third Monday in January of each year. In the event that all board positions are not filled at that time, the board may vote to postpone the election until their next meeting. Local chairpersons and vice-chairpersons may be re-elected.
 - b. Rule 5(c) of the Rules of Procedure for the Foster Care Review Boards provides:
 - In the event that the chairman of a review board is unable to attend a review or to perform his duties at any particular time, the vice chairman ~~shall~~ will exercise the duties of the chairman until such time as the chairman can resume them. If neither the chairman nor the vice chairman is present, the chairman or vice chairman when acting as chairman shall designate a member as acting chairman.
4. Responsibilities. A.R.S. § 8-515.03(4) provides: “Local foster care review boards shall”:
- a1. ~~“Review within six months of placement and at least once every six months thereafter the case of each child who remains in out-of-home placement and who is the subject of a dependency action to determine what efforts have been made by the ~~division~~ department and the agency with which the child has been placed to carry out the case plan for the permanent placement of such child.” A.R.S. § 8-515.03(4)~~

- b2. "Allow a child's parents and grandparents to attend the local foster care review board's review of the case. The parent or grandparent may be accompanied at the review by an advocate of the parent's or grandparent's choice." ~~A.R.S. § 8-515.03(2)~~
- e3. "Review any case assigned by the juvenile court for early review of the case plan within sixty days after the removal of a child from that child's home." ~~A.R.S. § 8-515.03(3)~~
- d4. "Submit to the juvenile court within thirty days following the review its findings and recommendations regarding the efforts and progress made by the ~~division~~ department and agency to carry out the case plan, together with any other recommendations it chooses to make regarding the child." ~~A.R.S. § 8-515.03(4)~~ The findings and recommendations shall include the date of the next review. A copy of such findings and recommendations shall be sent to the division or the agency, if the juvenile court has awarded custody of the child to the agency, and to such other interested parties as the court may require.
- e5. "Encourage and facilitate the timely return of children to their natural parents or, if the board finds that one or more of the grounds listed in section 8-533 may exist, encourage the appropriate agency to initiate such procedures as would make the child eligible for adoption, followed by a maximum effort by the agency to place the child for adoption." ~~A.R.S. § 8-515.03(5)~~
- f6. "Encourage the ~~department~~ division and all agencies involved in placing children in out-of-home placement to exert all possible efforts to make arrangements for permanent plans for children for whom return to natural parents or adoption is determined to be infeasible or impossible." ~~A.R.S. § 8-515.03(6)~~
- g7. "Promote and encourage the ~~department~~ division and all agencies involved in placing children in foster care to maximize stability and family continuity for children in foster care by discouraging unnecessary changes in the placement of foster children and by recruiting foster parents who may be suitable and eligible as adoptive parents." ~~A.R.S. § 8-515.03(7)~~
- h8. "Assist the ~~department~~ division and agencies in informing natural parents, foster parents and other interested parties of their rights and responsibilities with respect to any child in out-of-home placement. Natural parents, foster parents and other interested parties may be involved in the review process when appropriate." ~~A.R.S. § 8-515.03(8)~~

9. “Make recommendations to the state board regarding foster care policies and procedures as they relate to the children assigned for their review.” A.R.S. § 8-515.03(9)
5. Attendance at Case Reviews. A local foster care review board may exclude any person attending a case review where the conduct of such person unreasonably interferes with the ability of the board to fulfill its duties.
6. Meetings. A.R.S. § 8-515.01(G) provides: “Each local board shall meet, at a place designated by the juvenile court, as often as it deems necessary to carry out the duties of the local board. A local board shall not meet less than twice annually.”
- a. Rule 1, Rules of Procedure for the Foster Care Review Board provides:
- Quorum. A review ~~shall~~ will be conducted with no less than three review board members, unless circumstances prevent three review board members from being present, and postponement of the case would cause undue hardship for ~~participants and~~ interested parties or delays in court proceedings; ~~In these circumstance then~~ a review can continue with two review board members with the permission of the review board ~~specialist coordinator~~ and the review board ~~chairman~~ chairperson. In no case may a review be conducted with less than two review board members present. A member of a local review board may serve as a substitute member on any local board.
- b. ~~A member of a local review board may serve as a substitute member on any local review board.~~ Voting. Rule 6, Rules of Procedure of the Foster Care Review Boards provides: “Actions of a review board shall be decided by a majority vote.”
- c. ~~Review board members who are foster parents may not participate as board members in the review of children who are in their own care.~~ Conflicts of Interest. Rule 8, Rules of Procedure for Foster Care Review Boards Provides:
- (a) Review board members who are foster parents may not participate as board members in the review of children who are in their own care. Such members may be heard by the board pursuant to Rule 5-a.
- (b) Any review board member who in the course of their past or present employment has made recommendations or approved recommendations regarding a child subject to review may not participate as a board member in the review of that child. Such member may be heard by the board pursuant to Rule 5-a.

- d. ~~Any review board member who in the course of past or present employment has made recommendations or approved recommendations regarding a child subject to review may not participate as a board member in the review of that child.~~

~~7. Actions of a review board shall be decided by a majority vote.~~

~~87. Training. A.R.S. § 8-515.01(D) provides: “A person shall not remain on a local board unless the person participates in the training established pursuant to ~~A.R.S. §~~ section 8-515.04.~~

~~98. Reimbursement. A.R.S. § 8-515.01(F) provides: ~~A~~ “Local board members shall be compensated pursuant to title 38, chapter 4, article 2.”~~

~~109. Cessation of Case Review. The local board shall cease reviewing cases when the child is no longer out-of-home and the court issues an order relieving the board, finalizing an adoption or dismissing a dependency petition.~~

G. Program Operations.

1. Records and Confidentiality.

- a. All state and county program staff and volunteers shall comply with A.R.S. § 8-807, §41-1959, Arizona Rules of Court, including, but not limited to Rule 123, Rules of the Supreme Court, Rule 47, Rules of Procedure of the Juvenile Court, ~~The Arizona Code of Judicial Administration,~~ and administrative rules regarding confidentiality.
- b. A.R.S. § 8-519(B) provides: “Upon the request of a foster care review board, any record pertaining to a case assigned to such board, kept by the division or a child welfare agency, shall be furnished to the board.” Records obtained pursuant to A.R.S. § 8-519(B) shall not be reviewed by an outside agency unless a subpoena and an order of the presiding juvenile judge or designee has been issued.
- c. “All records and information in the possession of the foster care review board regarding children and their parents or relatives shall be deemed confidential, and shall be disclosed only pursuant to this article or by order of court.” A.R.S. § 8-519(C)
- d. All parties and participants, except children, shall receive a copy of the recommendations unless a case manager or local board requests that the court order the interested party not receive the documents.

e. Upon receipt of a subpoena, the ~~statewide program~~ manager shall ~~deliver~~ follow the requirements of ACJA Section 1-204: response to claims, summons and subpoenas. If it is determined that an in-camera inspection should occur the manager shall deliver a complete duplicate of the file to the presiding juvenile judge or designee for in camera inspection. No file shall be viewed without an order approving release of the file.

2. Assignment and Records. A.R.S. § 8-515.02(A. and B.) provides:

~~aA. Case Assignment~~—“The juvenile court in each county shall assign cases of children in out-of-home placement to a local board so that local boards are assigned an approximately equal number of children. In a case where a child resides in a county other than the resident county of his parents, the county of the child's original jurisdiction shall maintain jurisdiction unless, for valid reasons, the judge of such county transfers jurisdiction. A list of the cases so assigned shall be sent to the local board and the supreme court. ~~A.R.S. § 8-515.02(A)~~ For each case so assigned, the juvenile court shall also send to the local board:

~~b. Records Transfer.~~ “~~For each case so assigned, the juvenile court shall also send to the local board.~~

1. A copy of the case plan prepared by the division or agency.
2. A copy of the progress report or reports prepared by the division or agency pursuant to § section 8-516, subsection E.” ~~A.R.S. § 8-585.02(A)~~

~~eB. Early Review.~~—“Notwithstanding subsection A of this section, the juvenile court in each county in its discretion, or on the request of a mediator from the child welfare mediation program, may assign appropriate cases of children in out-of-home placement to a local foster care review board for early review of the case plan within sixty days after the removal of the child from the child's home.” ~~A.R.S. § 8-515.02(B)~~

~~H. Removal Review.~~

- ~~1. The judge shall appoint the removal review board members to the first board in counties with more than one local board.~~
- ~~2. The local foster care review board member who participates on the removal review team shall: “...Review each removal of a child which is expected to result in a dependency petition to assess options other than continued out-of-home placement including in-home services to the family. Such reviews shall be conducted before the dependency petition is filed.” A.R.S. § 8-822(3)~~

~~3. Local foster care removal review members shall complete removal review training prior to participation in a removal review and appointment to the removal review team.~~

III. Case Conferences Regarding Removal Review. Removal of Child from Foster Parent's Home; Requirements; Notifications; Review.

~~1. Review of removal from licensed foster parent. A.R.S. 8-515.05 provides:~~

~~A. Unless a child is removed from a licensed foster parent, excluding a shelter care provider and receiving foster parent, to protect the child from harm or risk of harm, to place a child in a permanent placement, to reunite siblings, to place a child in a kinship foster home, to place a child in a least restrictive setting, to place a child in a therapeutic setting or to place a child in accordance with the Indian Child Welfare Act (Title 25 United States Code § section 1915), the department shall inform the licensed foster parent of the department's intent to remove a child and place the child in another foster care placement. The department shall inform the licensed foster parent of the specific reason for the child's planned removal from the licensed foster parent. A.R.S. § 8-515.05(A)~~

~~2. Case Conference.~~

~~B. If the licensed foster parent disagrees with the removal, the licensed foster parent shall ~~inform~~ notify the department within twenty-four hours of being informed. If the licensed foster parent disagrees with the plan to remove the child and place the child in another foster home placement, the department shall convene a case conference to review the reasons for the removal. The licensed foster parent and a two members of the foster care review board ~~who shall~~ participates in a removal review team shall participate in the case conference. ~~A.R.S. § 8-515.05(B)~~ A child shall not be removed unless a majority of the members who participate in the case conference agree that removal is necessary.~~

~~3. Notification.~~

~~C. The department shall inform the licensed foster parent and the foster care review board of the time, date, and location of the case conference to review the planned removal. The case conference shall be held within seventy-two hours ~~of~~ after the licensed foster parent ~~informing~~ notifies the department that the licensed foster parent disagrees with the planned removal, excluding weekends and holidays. The child shall remain in the current placement pending the outcome of the case conference. A.R.S. § 8-515.05(C)~~

4. ~~Continuation of Removal Process.~~

D. “If as a result of the case conference, it is the department’s continued intent to move the child pursuant to ~~§~~subsection A and the licensed foster parent continues to disagree and the child:

(1.) Is in the court ordered physical custody of the licensed foster parent, a foster care review board member shall provide a recommendation to the court regarding the removal of the child before the change in physical custody. The child shall remain in the current placement pending a court order for removal.

(2.) Is not in the physical custody of the licensed foster parent, the licensed foster parent shall be advised of the department’s conflict resolution process. The department shall expedite the conflict resolution process. The child shall remain in the current placement pending the outcome of the conflict resolution process.”

~~A.R.S. § 8-515.05(D)~~

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IN THE SUPREME COURT STATE OF ARIZONA

In the Matter of:)	Supreme Court No. R-18-0005
)	
PETITION TO AMEND RULE 123,)	COMMENT
RULES OF THE SUPREME)	
COURT OF ARIZONA; RULES 19,)	
47, 75, & 86, RULES OF)	
PROCEDURE FOR THE)	
JUVENILE COURT)	
_____)	

David K. Byers, Administrative Director, Administrative Office of the Courts (AOC), respectfully submits this comment to inform the Court of the position of the AOC and the Juvenile Records Access Workgroup¹ regarding the proposed changes to rules concerning juvenile court records as set forth in Supreme Court Rule Petition R18-0005.

The workgroup met on August 23, 2018 and September 12, 2018, to discuss alternative language for the proposed rules, with the primary purpose of clearly delineating which record requests the clerk could address and which record requests

¹ The workgroup was created by David K. Byers consistent with this court’s order in R 18-0005 to “convene a workgroup of interested stakeholders to further consider the matter.”

required judicial review. The workgroup consisted of a broad range of stakeholders including representatives from the bench, court administration, the clerk's office, probation, prosecutor's office, parent's counsel, and judicial branch counsel. The workgroup invited representatives from the Arizona Department of Child Safety and the Arizona Department of Juvenile Corrections to the second meeting to elaborate upon the types of records they need in their work to serve a public purpose.

The workgroup agreed upon the edits to Rule 123, Rules of the Supreme Court, Rules 19, 47, 75, and 86, Rules of Procedure for the Juvenile Court, as presented in the attached Appendix.

Conclusion

For the reasons stated above, we respectfully request that the court adopt the version of the rules proposed in the attached Appendix.

Respectfully submitted this 27th day of September, 2018.

/s/
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APPENDIX

APPENDIX A: TEXT OF PROPOSED RULE CHANGES

RULES OF THE SUPREME COURT OF ARIZONA

Rule 123. Access to the Judicial Records of the State of Arizona

(a) – (c) [No changes]

(d) Access to Case Records. All case records are open to the public except as may be closed by law, or as provided in this rule. Upon closing any record the court shall state the reason for the action, including a reference to any statute, case, rule or administrative order relied upon.

(1) *Juvenile Delinquency Proceedings Records.*

(A) All Records of all juvenile delinquency and incorrigibility, emancipation, and guardianship under ARS Title 14 proceedings are open to the public to the extent provided for in the Rules of Procedure for the Juvenile Court, the Arizona Rules of Probate Procedure, or by law.

(B) All records of proceedings under Rule 47.3, Rules of Procedure for the Juvenile Court, dependency, guardianship under ARS § 8-871 through 8-874, termination of parental rights, adoption, and other related proceedings are confidential and must be withheld from public inspection unless authorized by law, rule, or court order. ~~Records of all juvenile adoption, dependency, severance and other related proceedings are closed to the public as provided by law unless opened by court order.~~

(C) All information and records obtained in the course of evaluation, examination or treatment of juveniles who have been referred to a treatment program funded by the juvenile probation fund (pursuant to ARS § 8-321) or the family counseling fund (ARS § 8-261 et seq.) are confidential and ~~shall not be released~~ must be withheld from public inspection unless authorized by law, rule or court order. These records include, but are not limited to, clinical records, medical reports, laboratory statements and reports, or any report relating to diagnostic findings and treatment of juveniles, or any information by which the juvenile or ~~his~~ the juvenile's family may be identified, wherever such records are maintained by the court.

(2) – (5) [No changes]

(e) – (f) [No changes]

(g) Remote Electronic Access to Case Records.

(1) A court may provide remote electronic access to case records as follows:

(A) Parties, Attorneys, and Arbitrators. Parties, attorneys, and arbitrators may be provided remote electronic access, upon registering, to case records that are not sealed in all case types in which the person is an attorney of record, arbitrator, or named party, including an individual, partnership, corporation, association, or public or private organization. An attorney of record on the staff of a public or private law firm may extend access to any other attorney or person working for or on behalf of that public or private law firm, upon the other attorney's or person's registration.

(B) Members of the State Bar of Arizona. In addition to access provided by paragraph (g)(1)(A), attorneys who are active members of the State Bar of Arizona may be provided remote electronic access to all case records that are not sealed or confidential by law, as authorized by the Arizona Code of Judicial Administration (ACJA).

(C) Governmental Entities and Private Organizations Serving a Public Purpose. Any federal, state, tribal or local governmental entity or private organization serving a public purpose may be provided remote electronic access to any case records necessary to carry out a particular governmental or public purpose responsibility. The terms of such access shall be set forth in a memorandum of understanding between the entity or organization and the custodian that includes provisions for safeguarding the confidentiality of any closed records. The director of the Administrative Office of the Courts may enter into a memorandum of understanding with a governmental entity as authorized by the ACJA.

(D) General Public, Registered Users.

(i) Members of the public may be provided remote electronic access pursuant to ACJA § 1-604 to all of the following categories of case records unless sealed or otherwise made confidential by rule or law:

(a) Civil case records in any action brought to enforce, redress, or protect a private or civil right but not:

- Juvenile ~~dependency and delinquency or other~~ matters brought under ARS Title 8;
- Family law, paternity, or other matters arising out of ARS Title 25;
- Orders of protection, injunctions against harassment and all proceedings, judgments or decrees related to the establishment, modification or enforcement of such orders, including contempt; or
- Probate proceedings brought under ARS Titles 14 and 36.

(b) Civil traffic case records in any action brought as such under ARS Titles 28 or 41 or a matter expressly designated as a civil traffic violation by a traffic ordinance of a city or town, and any boating violation punishable by a civil sanction under ARS Title 5, chapter 3, articles 1 through 11, or a non-traffic ordinance expressly designated a civil violation or a boating ordinance by a city or town.

(c) Criminal case records in any action instituted by the government to punish offenses classified as a misdemeanor or felony brought pursuant to ARS Titles 4, 13, 28, or local ordinance and case records in any action instituted to punish petty offenses classified by ARS § 13-601.

(d) Case records in any action instituted by a county to enforce an ordinance that provides for criminal and civil penalties pursuant to ARS §§ 11-251 and 11-808.

(to end) [**No changes**]

RULES OF PROCEDURE FOR THE JUVENILE COURT

Rule 19. Records and Proceedings

A. Contents of Juvenile Court Files.

1. *Legal File.* The legal file of the juvenile court shall consist of all pleadings, motions, minute entries, orders, or other documents as provided by rule or ordered by the court. Within the legal file, the clerk shall file and segregate confidential documents, including any information and documents from the social file submitted to the court as provided in Rule 30(A). In addition, the court may close all or part of the legal file upon a finding of a need to protect the welfare of the victim or another person or a clear public interest in confidentiality. With the exception of the portions of the file ~~marked~~ identified as confidential by law, rule, or court order, or ordered closed by the judge, the legal file shall be open to public inspection without order of the court. The court shall state its reasons for withholding the legal file, or portions thereof, from public inspection.

2. *Social File.* The social file shall be maintained by the probation department and may consist of all social records, including diagnostic evaluations, psychiatric and psychological reports, treatment records, medical reports, social studies, Department of Child Safety records, police reports, disposition reports, detention records, and records and reports or work product of the probation department. The social file of the juvenile shall be confidential and withheld from public inspection except upon order of the court.

B. Proceedings. Delinquency, incorrigibility, diversion involving delinquent acts and transfer proceedings shall be open to the public, except upon the court's written finding of a need to protect the best interests of a victim, the juvenile, a witness, the state, or a clear public interest in confidentiality.

1. *Request to Close Hearing.* Any person requesting that a hearing or portion thereof be closed to the public shall give notice of such request to the parties, or to any other person designated by the court, which may include one or more media representatives. The court shall hold a hearing, prior to the proceeding, to determine whether the proceeding should be closed and shall consider the positions of the parties. In determining whether to close a hearing or any portion thereof, the judge may consider any relevant factors, including the likelihood that an open hearing may:

- a. Be emotionally harmful to a participant, or

- b. Inhibit testimony or the disclosure or discussion of information material to the truth-finding or rehabilitation process, or
- c. Otherwise interfere with the emotional well-being of the victim.

C. Release of Juvenile Court Files

1. Release to Juvenile Probation Departments. In addition to records open to public inspection, the juvenile court may release all records in its possession to a juvenile probation department when necessary for supervision of a juvenile.
2. Release to Federal Authorities. Upon request of the United States Attorney's Office, the juvenile court shall promptly release to that office for presentment to a federal magistrate judge any records concerning a juvenile who is arrested for a criminal offense, pursuant to 18 U.S.C. § 5032.

RULES OF PROCEDURE FOR THE JUVENILE COURT

Rule 47. Release of Information

A. Records confidential generally. All records pertaining to of proceedings under Rule 47.3, Rules of Procedure for the Juvenile Court and of dependency, guardianship under ARS § 8-871 through 8-874, termination of parental rights, and other related proceedings shall be maintained as are confidential and shall must be withheld from public inspection except upon order of the court or as otherwise provided by law. unless authorized by law, rule, or court order.

1. Inspect without court order. A parent, petitioner, or when named as a party, a court-appointed legal guardian or the department of child safety, may inspect and copy case records while that individual remains a party to the case. On appeal, a party may inspect and copy records created prior to the ruling upon which the appeal is taken. The following other individuals and entities are authorized to inspect and copy case records without review by the court:

a. A current party's attorney of record, and current guardian ad litem.

b. Arizona judicial officers, clerks, administrators, professionals or other staff employed by or working under the supervision of the court, including staff of the administrative office of the courts, dependent children's services division, for the local foster care review boards, shall have such access as needed to carry out their assigned duties.

c. Court Appointed Special Advocates pursuant to A.R.S. § 8-522(F).

d. A designated member or staff of the Arizona Commission on Judicial Conduct performing duties under commission rules.

e. A court-appointed legal guardian not a party to the case may obtain a certified copy of the guardian's appointment order on request during the term of the guardian's appointment.

f. A designee of the Department of Juvenile Corrections shall have such access as needed to carry out their assigned duties for any individual who is subject to a commitment order.

2. Access by court order. The following individuals and entities must obtain a court order prior to inspecting the case record.

- a. An individual who was the subject of a dependency, a guardianship under A.R.S. §§ 8-871 through 8-874, or a termination of parental rights action as a minor.
- b. An individual who is not qualified under A(1) or whose parental rights were terminated or who was dismissed from the case.
- c. A designee of the Department of Child Safety when the Department is not a party in the case upon a showing that inspection is required to carry out the Department's responsibilities.
- d. A foster parent to inspect and copy records other than records a foster parent is authorized to inspect under A.R.S. § 8-514(D)(5).
- e. Any individuals and entities not otherwise authorized by this rule to inspect records.

B. Any person may file a request with the court to inspect court records in a case involving child abuse, abandonment or neglect that has resulted in a fatality or near fatality. In ruling on this request, the court shall consider:

1. Whether doing so is in the child's best interests.
2. Whether inspection of records would endanger the child's physical or emotional well-being or the safety of another person.
3. The privacy rights of the child, the child's siblings, parents, guardians and caregivers and any other person whose privacy rights the court determines need protection.
4. Whether all parties have agreed to allow the inspection.
5. If the child is at least twelve years of age and a party to the proceeding, the child's wishes.
6. Whether inspection of records could cause specific material harm to a criminal investigation.

C. If the court grants the request for inspection of court records, the court shall redact any information subject to the requirements of A.R.S. § 8-525(B)(1) through (6) and A.R.S. § 8-807.01(A)(1).

RULES OF PROCEDURE FOR THE JUVENILE COURT

Rule 75. Release of Information

All adoption records ~~pertaining to adoption proceedings shall be maintained as~~ are confidential and shall be withheld from public inspection ~~except upon order of the court or as otherwise provided by law~~ unless authorized by law, rule, court order, or as provided by the procedures in Rule 86.

RULES OF PROCEDURE FOR THE JUVENILE COURT

Rule 86. Adoption Records

A. Request for Records. ~~Unless otherwise provided by law, all requests for information concerning adoption records will be made in writing and filed with the clerk of the court~~ individuals must file a request with the presiding judge of the juvenile court or the presiding judge of the juvenile court's designee to inspect adoption records. ~~The r~~Requests will set forth must state the information being sought and why the requestor needs the information is needed by the requestor. The court ~~will not~~ may release identifying information about the adoptee or birth parent when:

1. in the absence of The file contains a notarized statement authorizing release, granting consent under A.R.S. § 8-121(E), or;
2. unless The requestor establishes a compelling need for disclosure.

B. Records of Indian Adoption. Under 25 U.S.C. § 1917, U~~pon application a request filed with the court by an Indian individual who has reached the age of eighteen (18) and who was the subject of an adoptive placement, the court which that~~ entered the final adoption decree shall must inform the individual of the tribal affiliation, if any, of the individual's biological parents and provide such other information as may be necessary to protect any rights flowing from the individual's tribal relationship. If the biological parent executed a notarized statement requesting anonymity, information pertaining to the biological parent shall be redacted prior to release.