



Family First Communication Strategy: Courts and Legal Partners

Purpose

This document was drafted for South Carolina Court and Legal Partners to orient them to key Family First Prevention Services Act (Family First) provisions, to highlight the court-specific implications of the legislation, and to identify practice areas that may require modification.

Family First Overview

Family First was signed into law in 2018 and represents a shift in child welfare practice by providing reimbursement for evidence-based, foster care prevention services aimed at stabilizing families and keeping children safely at home with their families. Family First prioritizes placing children in the least restrictive, most family-like environment, and limits federal reimbursement for congregate care by establishing additional requirements related to child clinical assessment and court approval for placement in qualified residential treatment programs (QRTPs).

Prevention Services

Family First reimbursable evidence-based programs must be listed in the Prevention Services Clearinghouse, must be selected in South Carolina's prevention plan, and fall within the following categories:

- Mental health treatment services
- Substance abuse prevention and treatment services
- In-home parenting skill-based services and programs

Eligible Families

- A child who is a candidate (i.e., at imminent risk) for foster care (as defined by South Carolina)
- A child in foster care who is pregnant or parenting
- The parents or kinship caregivers of these children

Congregate Care Facility Modifications

- Trauma-informed treatment model
- Registered or licensed clinical staff
- Facilitated outreach and engagement of family members in treatment
- Discharge planning and family-based aftercare support for at least 6 months after discharge
- Facility accreditation

Court-Related Impacts

1. Family First offers an expanded prevention service array as a tool for the Department of Social Services (DSS) and **the courts** to support family stabilization prior to and in lieu of removing children from their homes.

2. Placement in a congregate care facility (a QRTP) must be assessed by a qualified individual with mental health training within 30 days of placement to ensure the placement appropriately aligns with the child's needs. Within 60 days and at every permanency hearing, **the courts** must review and approve or deny the QRTP placements determined appropriate through the assessment process.

Review assessment for:

- Documentation of how the QRTP meets the child's treatment and service needs,
- Evidence that a QRTP is the most effective and appropriate level of care in the least restrictive environment
- Evidence that a QRTP meets the child's short- and long- term goals,
- Documented efforts to prepare child to exit care and be placed in foster home.

Tips for Attorneys and Judges

- ❖ **Advocate for prevention services**, especially in cases involving mental health, substance use, and parenting skills challenges **to prevent removal**.
- ❖ **Ask whether prevention services were offered before removal**—including services for parent, kinship caregiver, or child.
- ❖ Request a copy of the Family Permanency Plan to determine whether **reasonable efforts have been made to prevent removal**.
- ❖ If removal is determined to be necessary, **investigate whether kinship placement is possible that could be supported using prevention services** as an alternative to foster care.
- ❖ In jurisdictions where Family First services are available post-permanency, **advocate for prevention services** following permanency **to prevent re-entry**.
- ❖ If representing an **expectant or parenting teen in foster care**, ask if the teen is interested in prevention services and advocate accordingly.

Changes in Practice

South Carolina is working to leverage Family First in order to safely keep families together. The courts can assist in this process by:

- Working with DSS to prevent foster care entry by supporting the use of the expanded service array as a prevention tool
- Carefully reviewing QRTP assessments to ensure all family-like options have been considered and that congregate care is the most appropriate placement to support the child's needs and goals
- Collaborating with DSS to continue to seek resources, services, and practices to keep families safely together

Resource: Institutional Placement Decisions in the Dependency System: A Benchcard for Judges and Legal Partners https://www.ncsc.org/_data/assets/pdf_file/0023/53726/Benchcard-Draft-09012020-JW.pdf