

THE SYMPTOMATIC TREATMENT OF FOSTER CARE IN THE UNITED STATES

TRINITY E. SANDIFER*

INTRODUCTION.....	1
I. CURRENT ISSUES FACING THE FOSTER CARE SYSTEM	4
II. WHAT THE STATES ARE DOING ABOUT THESE ISSUES	7
III. THE FEDERAL GOVERNMENT'S ROLE.....	9
IV. STATES ALREADY HAVE THE TOOLS	12
V. ANALYSIS	15
CONCLUSION.....	20

The current state of the Foster Care System in the United States necessitates urgent reform on both federal and state levels. It is crucial to shift the focus from solely addressing the system's needs to prioritizing the well-being and support of the families involved. This shift requires a comprehensive restructuring of policies and resources to center on prevention, intervention, and family preservation. By prioritizing family-focused solutions, the Foster Care System can better provide a safe and supportive environment for children in need. This paper outlines the necessity of reform and highlights the importance of redirecting the system's focus toward holistic family and community support.

* Candidate for Juris Doctor, University of Tennessee College of Law, May 2025; Bachelor of Arts, Georgia Southern University, May 2022. I would like to express my gratitude to several individuals who have contributed to the development of this article. First and foremost, I want to acknowledge my mother, Eva Sandifer, for her dedication to children as a foster care provider, as well as her impact as a teacher and role model to many. I am also thankful to the faculty and staff at the University of Tennessee College of Law for the valuable opportunities they have provided me as a student. A special thank you goes to Professor Teri Baxter for her helpful suggestions and guidance in relation to this article. Lastly, I appreciate the diligent efforts of my colleagues at the *Tennessee Law Review* for their valuable edits.

INTRODUCTION

States must implement services and procedures that prevent children from being placed in the Foster Care System. Determining how state agencies resolve the conflict between keeping a child with their parents through prevention services and creating a fostering Child Welfare System is a necessity that has continuously taken the backseat in the Child Welfare System. Current problems within the Foster Care System highlight the competing obligations of Child Welfare workers, policies, laws, and the systematic reasons a child must enter the Child Welfare System. Highlighting the glaring issues that precede and follow a child through the Foster Care System presents the reality that there must be another way to ensure the safety of these children.

The Foster Care System in the United States is silent and fragmented, struggling to find an equitable solution for each person involved. The purpose of the Foster Care System is to prevent abuse and neglect of children in their homes by strengthening families so that children can depend on their parents to provide them with a safe and loving environment.¹ This mission highlights the importance of reuniting children with parents while simultaneously implicating the Child Welfare System with the duty to perfect the overall family structure by taking the child away. Along the same premise, the Foster Care System is defined as a “temporary living situation for kids whose parents cannot take care of them and whose need for care has come to the attention of child welfare agencies.”² In 2023, 606,031 children passed through the US foster system within one year.³ Additionally, this system is

1. Emilie Stoltzfus, Cong. Rsch. Serv., IF 10590, *Child Welfare: Purposes, Federal Programs, and Funding* (database updated Feb. 2024).

2. *Foster Care Explained: What It Is, How It Works and How It Can Be Improved*, ANNIE E. CASEY FOUND. (database updated Feb. 5, 2024), <https://www.aecf.org/blog/what-is-foster-care>.

3. *How Many Kids Are In Foster Care?*, USA FACTS (Aug. 23, 2023), <https://usafacts.org/articles/how-many-kids-are-in-foster-care/>.

defined as a “temporary solution,” requiring the Foster Care System to be a stepping stone in returning a child to their parents.⁴ Still, as the system is magnified, the issues underlying those mission statements reveal that they are simply words on paper.

The United States Constitution “promote[s] the general welfare,” which likely leads each mind to something entirely different.⁵ But this phrase is an essential idea for the Child Welfare System. This simple notion ensures that the federal government has a hand in the welfare of its citizens and children. Comparatively, in a manner equivalent to the Education Policy in the United States, the federal government provides technical support and funding to each state.⁶ Further, just as the federal government obligates states to meet specific requirements before federal funding is dispersed in the education system, each state “must agree to meet certain federal program rules” to obtain federal funding within the Foster Care System.⁷ These rules will be discussed subsequently in this article.⁸ Still, it remains clear that the United States Constitution delegates the “primary public responsibility for ensuring the well-being of children and their families” to the states.⁹

States bear a substantial burden to ensure and implement the mission and policies of the Child Welfare and the Foster Care System. States work with public and private entities, “including the courts and social service, health, mental health, education, and law enforcement agencies,” to ensure the wellbeing of children and families.¹⁰ States also

4. *See supra* note 3 (“Foster care is intended to provide a temporary stable home for children who cannot safely remain in their current situations due to abuse, neglect, or abandonment.”).

5. *See* U.S. CONST. PMBL. (“We the People of the United States . . . promote the general welfare . . .”).

6. Stoltzfus, *supra* note 1.

7. *Id.*

8. *See infra* Part III.

9. *Id.* *See generally* *The Failures and Future of the U.S. Foster Care System*, THE POLY CIRCLE (2023), https://www.thepolicycircle.org/brief/the-failures-and-future-of-the-u-s-foster-care-system/#section_7.

10. Stoltzfus, *supra* note 1.

play a significant role in the funding of the welfare system “to carry out child welfare activities, including the Foster Care System.”¹¹ Still, outstanding portions of state activities have not been directed at the source of many child welfare issues. Instead, the focus should be on the child’s parent, guardian, or primary caregiver. This can be achieved by valuing the critical investment of prevention services to ensure that a child is never taken away from their parents. Without the proper vision toward parent betterment, the Child Welfare System, on the state level, works against itself in the most damaging ways.

This article will address the status of the Foster Care System in the United States and emphasize the need for immediate reform at both the federal and state levels. It is essential to shift the focus from simply addressing the system's requirements to placing greater emphasis on the well-being and support of the families involved. This article will be divided into five parts. Part I will discuss the current issues facing the Foster Care System. Part II will highlight the role of states in implementing and improving the Foster Care System. Part III will address the federal government's role in overseeing the Foster Care System. Part IV will discuss the resources that states have at their disposal to bring about change. Finally, Part V will propose solutions to these issues.

I. CURRENT ISSUES FACING THE FOSTER CARE SYSTEM

Many issues persist for everyone involved in the Foster Care System; some are entirely solvable, and others are profoundly complex and rooted in systematic disparities. Children and parents are disadvantaged by becoming involved in the Foster Care System, creating a necessary shift to parent stability. This section will highlight problems

11. *Id.*

existing for children in foster care and parents with children in the system.

Complex barriers arise for parents, guardians, or caregivers when their child is taken into the custody of the state. Housing instability is a common reason for a child to enter the Foster Care System and a difficult hurdle for parents.¹² In fact, the intersection between housing instability and child welfare involvement creates less of a chance for reunification and affects roughly 75%¹³ of parents whose children are taken away.¹⁴ Housing instability includes trouble paying rent, disruptive and frequent moves, and homelessness, creating an undefined category of perceived “neglect.”¹⁵ Among these issues, in some extreme cases, are “substance abuse, domestic violence, mental health, and poverty.”¹⁶

Once children enter the system because of prevailing issues, they face their own set of problems under the state’s custody. Some significant factors negatively impacting children in the Foster Care System include unfortunate disruptions such as “placement instability” within the Foster

12. Rong Bai, et al., *Facilitators and Barriers to Reunification Among Housing Unstable Families*, 148 CHILD. & YOUTH SERVICES REV. 1, 1 (2023) (“In particular, housing unstable families with child welfare system involvement face multiple challenges to reunification. Children from these families tend to stay longer in foster care and have less chance of achieving reunification with their caregivers as compared to low-income stably housed families.”).

13. See generally Marie Zemler Wu, *Reality Check: How We Can Fix the US Foster Care System*, TECH. OPTIMISTIC (Aug. 16, 2023), <https://www.emersoncollective.com/articles/reality-check-how-we-can-fix-the-us-foster-care-system> (“About 75% of children involved in the child welfare system are there because of perceived ‘neglect.’”)

14. See Bai, *supra* note 12, at 1 (“The intersection between housing instability and child welfare involvement has gained attention from practitioners and policy makes. In particular, housing unstable families with child welfare system involvement face multiple challenges to reunification.”).

15. See *id.* (“Housing instability represents the more widespread forms of literal homelessness (i.e., living in shelters, transitional housing, or streets), and is variably defined as living in doubling-up situations, having frequent and disrupted moves, facing eviction, and having troubling paying rent.”).

16. See *id.* at 2 (“In terms of barriers to reunification, substance abuse, domestic violence, mental health and poverty are documented as major barriers to reunification.”).

Care System.¹⁷ Moreover, when a child is removed from their parents and once again uprooted while in the Foster Care System frequently, children “endure[] considerable hardship, loss, and trauma without adequate support[.]”¹⁸ Further, these children may already have significant unmet health needs preceding placement in the Foster Care System, which are rooted in “complex trauma histories” and often remain unidentified while under state care.¹⁹

A child’s necessities include self-efficacy, self-esteem, relational skills, and a well-rounded and healthy family dynamic.²⁰ Unfortunately, this may be absent for children in foster care, often resulting in these children scoring in the lowest percentile in elementary and secondary education and having lower chances at higher-paid jobs due to limited work histories during their teenage years.²¹ These difficulties escalate into higher rates of poverty for children in foster care if they age out of the system.²² Additionally, 25% of “19-year-old former foster care youth reported a higher incidence of health problems than non-foster care youth in a comparison study.”²³ Further, “[o]nly 50% of children in foster care will finish high school[.]” and students in the Foster Care System face a “[h]igh school dropout rate . . . 3x higher . . . than other low-income children.”²⁴ Therefore, with undeniable issues of this stature, it is difficult to believe that the states and the

17. Timothy Belseth, *ACE’s in Foster Care: Rethinking Trauma-Informed Care*, TX INST. CHILD & FAM. WELLBEING, <https://txicfw.socialwork.utexas.edu/aces-foster-care-rethinking-trauma-informed-care/> (“For foster children, placement instability, bureaucratic overreaction, and social isolation is unfortunately all too common. Consequently, these negative experiences have a powerful impact in shaping foster children’s behavior.”).

18. *Id.*

19. *Id.* (“It is well-known that children in foster care have extensive trauma histories.”).

20. See *Young Adults Formerly in Foster Care: Challenges and Solutions*, YOUTH, <https://youth.gov/youth-briefs/foster-care-youth-brief/challenges> (emphasizing that youth who are transitioning to adulthood “need to have well developed self-esteem and self-efficacy skills that equip them to manage relationships in multiple contexts”).

21. *Id.*

22. *Id.*

23. *Id.*

24. *Higher Education for Foster Youth*, NAT’L FOSTER YOUTH INST. [NFYI], <https://nfyi.org/issues/higher-education/>.

U.S. Federal Government have yet to make substantial progress in eliminating these disparities.

II. WHAT THE STATES ARE DOING ABOUT THESE ISSUES

States across the country deal with advanced problems when it comes to caring for children in the Foster Care System. These issues include the circumstances that cause children to be placed in the Foster Care System, such as the numerous issues outlined above, and issues within the System, including unmet health needs, instability in placements, and high staff turnover. Having addressed the circumstances that cause children to enter the System, this section will now focus on the issues within the System. Critically, there is a national shortage of licensed foster parents and homes; many states such as Texas, Washington, and Tennessee²⁵ have “reported children sleeping in child welfare agency offices.”²⁶ States also deal with an overwhelming amount of turnover for Child Welfare workers, with an annual rate between 30% and 65%.²⁷ Despite prevailing issues, states have yet to change course to resolve these issues.

The programs that states have implemented to remedy issues within the Foster Care System will likely perpetuate existing barriers to positive change. For example, in Tennessee, there is a high level of instability in the Foster Care System, evidenced by children under state care sleeping on the floors of state office buildings for days at a time and even spending months in hospital beds.²⁸ Further, “Tennessee’s rate is more than twice the national average” for “shuffling kids from one temporary home to another

25. Anita Wadhwani, *Tennessee Department of Children’s Services Calls for Budget Bump as Kids’ Needs Rise*, TENN. LOOKOUT (Nov. 16, 2023, 5:01 AM), <https://tennesseelookout.com/2023/11/16/tennessee-department-of-childrens-services-calls-for-budget-bump-as-kids-needs-rise/> (reporting that many children in Tennessee “were forced to sleep inside state government office buildings”).

26. *The Failures and Future of the U.S. Foster Care System*, *supra* note 9.

27. *Id.*

28. Wadhwani, *supra* note 25.

during their first year in [state] foster care.”²⁹ Tennessee’s Welfare System also faced “[e]xtraordinarily high turnover among social workers and unmanageable caseloads have left the department unable to ensure children’s safety.”³⁰ As a solution, the Tennessee State Welfare System proposed an increase in the overall annual budget for more significant payments to foster parents and residential treatment providers.³¹ However, increasing allocated resources is not the only problem, nor is it a substantial resolution.

Comparatively, Georgia has a large budget for its Child Welfare System, but a substantial budget has failed to resolve prevailing problems. Demonstratively, there is a staffing crisis in Georgia, with high turnover among social workers and child welfare employees.³² In response, the governor proposed a significant budget increase that “includes” Child Welfare, but its central position is to provide higher pay for social workers.³³ Although notable, the proposal fails to account for the circumstances that cause high turnover, including overwhelming caseloads, emotional taxation, or the difficulty of becoming a home for children in the Foster Care System.³⁴

Considering Tennessee and Georgia’s proposals, these solutions are disengaged in light of the issues presented earlier in this article. Moreover, these surface-level solutions inadequately address the reasons behind the continued

29. Anita Wadhvani, *Report: High Levels of “Foster Care Instability” Among Kids in Tennessee Care*, TENN. LOOKOUT (Jan. 11, 2023, 6:00 AM), <https://tennesseelookout.com/2023/01/11/report-high-levels-of-foster-care-instability-among-kids-in-tennessee-care/> (“More than one-third of all Tennessee kids coming into foster care since 2016 have been moved to three or more different foster homes or other placements in their first 12 months in state custody — a practice with potentially long-term negative impacts on the well-being of kids[.]”).

30. *Id.*

31. Wadhvani, *supra* note 25.

32. See Ife Finch Boyd, *Overview: 2025 Fiscal Year Budget for Human Services*, GA BUDGET & POL’Y INST. [GBPI] (Feb. 13, 2024), <https://gbpi.org/overview-2025-fiscal-year-budget-for-human-services/> (emphasizing that the Division of Family and Children Services of the Department of Human Services in Georgia has recently seen declining staffing levels).

33. See *id.* (proposing a \$4.7 million increase in salary for child welfare caseworkers).

34. *Id.*

cycles of an unsafe and unstable Foster Care System due to the lack of action to solve prevalent concerns at the source.

III. THE FEDERAL GOVERNMENT'S ROLE

The federal government has implemented the Family First Prevention Services Act (FFPSA) to provide technical and support services, which takes an entirely different approach than the states.³⁵ The legislature, collaborating with communities, tribes, courts, and public and private health providers, passed the FFPSA to “prevent children from entering foster care.”³⁶ This shows that better avenues exist rather than placing children in the Foster Care System.

The Family First Prevention Services Act (FFPSA), authorized by Title IV-E, provides optional funding for “time-limited prevention services for mental health, substance abuse, and in-home parent skill-based programs for children or youth who are candidates for foster care.”³⁷ Contrary to the goals and solutions set forth by the states, the primary goal of the FFPSA is to prevent the need for children to be placed in foster care. Still, the program only assists those who meet federal IV-E eligibility guidelines.³⁸ For a state to receive federal funds, it must present a formal “prevention plan for foster care candidates that allows children to stay with their families.”³⁹ Surprisingly, both Georgia and Tennessee receive federal funds through documented prevention plans.⁴⁰

35. See generally, Caitlyn Garcia, *Replacing Foster Care: The Family First Prevention Services Act of 2018*, 53 FAM. L. QUARTERLY 27 (2019), <https://utk.idm.oclc.org/login?url=https://www.proquest.com/scholarlyjournals/replacing-foster-care-with-family-first/docview/2426139952/se-2?accountid=14766>.

36. *Id.*

37. *Title IV-E Prevention Program*, CHILD.'S BUREAU (June 23, 2023), <https://www.acf.hhs.gov/cb/title-iv-e-prevention-program>.

38. Stoltzfus, *supra* note 1.

39. Garcia, *supra* note 35.

40. See generally *Georgia Title IV-E Prevention Plan*, GA. DEPT. HUM. SERVICES DIV. FAM. & CHILD. SERVICES 1 (2021) <https://dfcs.georgia.gov/document/document/draft-title-iv-e-preventionplan/download>; see generally *2018-2019 Resource Guide*, TENN. DEPT. HEALTH, https://www.tn.gov/content/dam/tn/health/prograreas/primary-prevention/FINAL_2018_2019_OPP_Resource_Guide.pdf.

Nevertheless, distribution limitations on Title IV-E funds are quite substantial, requiring states to fill in the gaps. For example, Title IV-E funds are limited in a few significant ways.⁴¹ First, federal funding only accounts for “at least 50% of the cost of prevention services,” meaning that the federal government will match the amount the state allocates for “services and programs [that] meet certain evidence-based standards” but fails to consider that is will likely be insufficient in the face of prevailing issues.⁴² Second, “in-home parenting services would not accommodate incarcerated parents or mothers experiencing intimate partner or domestic violence” because FFSPA “does not directly assist housing insecure parents[.]”⁴³ Finally, “FFSPA’s standard services do not combat the discrimination in access to medical care and prevention services without directing states to create diverse, tolerant, and culturally aware facilities for providing services[.]” which currently leaves individual facilities within states to navigate this issue.⁴⁴

Although the federal government has created pathways to prioritize prevention resources and services so that children do not enter the Foster Care System, it has actually created an “intervention” plan.⁴⁵ As a result, the FFSPA has been critiqued as “a messy and poorly written piece of legislation . . . creat[ing] more problems than it solves.”⁴⁶ Further, the program requires that “50% of funding be spent on ‘well-supported’ programs . . . [including] three mental health

41. Garcia, *supra* note 35.

42. *Id.* (“Drug-related removals increased from thirty-four percent in 2016 to thirty-six percent in 2017. This percentage represents more than 96,700 children removed for a parental drug abuse issue. However, drug abuse does not only affect removal but also reunification.”)

43. *Id.*

44. *Id.*

45. See Marie K. Cohen, *Family First Act: A False Narrative, a Lack of Review, a Bad Law*, CHILD WELFARE MONITOR (Oct. 1, 2019), <https://childwelfaremonitor.org/2019/10/01/family-first-act-a-false-narrative-a-lack-of-review-a-bad-law/> (providing that most experts would consider the prevention services under the FFPSA as interventions services).

46. *Id.*

programs, three home visiting programs, and no drug treatment programs.”⁴⁷ These limited programs have created issues with existing programs, with many proposals advocating for this specific “provision [to] be eliminated or delayed.”⁴⁸ Most damaging to the FFPSA is that there are restrictions on where a child must be placed when they are not in a foster home.⁴⁹ For example, the FFPSA emphasizes kinship diversion homes where a relative takes care of the child for up to twelve months while the parent receives “prevention” services.⁵⁰ However, if a child is not placed within twelve months, the state will no longer provide the kinship placement with assistance or financial support, which in turn creates an avenue for “states and counties to use kinship diversion rather than licensing relatives as foster parents.”⁵¹

FFPSA was likely implemented because the Foster Care System could not use Title IV-E funds for services to avoid foster care placement.⁵² In reality, other federal avenues like Medicaid, Title IV-B, TANF, and CAPTA funds were used to further the mission to prioritize prevention services.⁵³ In summary, FFPSA only redirects funds to congregate care but does not add resources to the system.⁵⁴

The FFPSA needs to be fixed as a prevention framework. It is a circular Bill that imitates action without applicable implementation. Nonetheless, a tangible lesson from the FFPSA is the movement from sole reliance on the Foster Care System to the desire for prevention services.

47. *Id.* (emphasis in original).

48. *Id.*

49. *Id.* (noting that the FFSA cuts off funding for any placement that is not a foster home with limited exceptions).

50. *Id.*

51. *Id.* (“There is concern that FFPSA may encourage states and counties to use kinship diversion rather than licensing relatives as foster parents, thus entitling them to more services and assistance and ensuring that the agency does not lose track of the children.”).

52. *Id.*

53. *Id.*

54. *Id.*

IV. STATES ALREADY HAVE THE TOOLS

One benefit of the FFSPA is that states receiving federal funds have already created a prevention plan and have mission statements that encourage foster care prevention. For example, Georgia and Tennessee have guidelines in their statutes that directly reflect the priority of keeping children with their relatives but fail to ensure the stability of families within the investigation period before removal. This peculiar approach creates an unstable environment that lacks proper focus, evidenced by the State Welfare System requesting budget increases without acknowledging the issues that make foster care placements so prevalent.

Tennessee created a prevention plan that seeks to prioritize family-first intervention rather than foster care placement before children are taken into state custody. Specifically, the Department of Children's Services (DHS), through the implementation of a Strategic Plan, aims to protect "children who are victims of abuse or neglect, strengthens families through treatment and trauma-based services, provides services that lead to permanency for children in state custody, and develops community-driven solutions to challenges faced by young people and their families."⁵⁵ Tennessee's prevention plan goals and objectives were set to begin in 2020 and progress toward completion in 2024.⁵⁶ Included in these goals, for example, is the hiring of new workers to "deliver Parent-Child Interactive Therapy" and other services.⁵⁷ Additional plans include the implementation of the Family First Prevention Act by providing "evidence-based treatment models," identifying children that require longer stays in the system, recruiting and retaining staff, external recommendations and reviews for quality service, and implementing a "foster home

55. Jennifer Nichols, *Department of Children's Services Strategic Plan 2020–2024*, TENN. GOV. 1 (2021), https://www.tn.gov/content/dam/tn/dcs/documents/about-us/DCS_Strategic_Plan.pdf.

56. *See generally id.*

57. *Id.*

placement assessment model designed to test the validity of improving placement stability.”⁵⁸ Tennessee’s Strategic Plan aims to: (1) build family resources so that children remain with family and (2) recruit and retain qualified staff to ensure the prevention model is followed.⁵⁹

Further, the Tennessee statutes that govern investigations and requirements for child removal encourage the idea that children should be placed with family. For example, the laws contained in Tennessee Code Annotated Section 37-2-414 are guidelines for social workers to follow when deciding to remove a child from the home. A notable provision provides that “[w]hen a child has been removed from such child’s home and is in the care . . . of the department, the department shall attempt to place the child with a relative for kinship foster care.”⁶⁰ Additionally, the laws in Tennessee encourage and prioritize placing a child with a family member first. On the other hand, this statute also restricts family members who would otherwise be able to care for the child. For example, the department must determine a family member’s eligibility; they must be over 21,⁶¹ no more than a third-degree family member to the parent,⁶² complete an investigation,⁶³ provide fingerprints,⁶⁴ in-home visits,⁶⁵ interviews,⁶⁶ professional references,⁶⁷ and more. These restrictions could substantially bar a family member from reuniting with a child who is already at risk of becoming involved in the Foster Care System. On balance, Tennessee incorporates prevention provisions in its statutes. An additional example can be found in Tennessee Code Annotated Section 37-1-101, which states that Juvenile

58. *Id.*

59. *See generally id.*

60. TENN. CODE ANN. § 37-2-414 (b)(2).

61. *Id.* at (b)(3)(B).

62. *Id.* at (b)(3)(A).

63. *Id.* at (b)(3)(C)(i).

64. *Id.* at (b)(3)(C)(ii).

65. *Id.* at (b)(3)(D)(ii).

66. *Id.* at (b)(3)(D)(iii).

67. *Id.* at (b)(3)(D)(i).

Courts should “separate[e] a child from such child’s parents only when necessary for such child’s welfare or in the interest of public safety.”⁶⁸ Here, it is clear that Tennessee’s underlying priority is to keep families together.

In the same manner, Georgia’s Prevention Service plan is robust and multifaceted and states: “[s]afe children[,] [s]trengthened families[,] [s]tronger Georgia.”⁶⁹ Additionally, six core values are the engine for this plan, which is simply that “[a]ll children and youth deserve to be safe from harm . . . stable and healthy . . . nurtured in families.”⁷⁰ Along with these values is a call for the Child Welfare System to take collective responsibility for the safety of children and family well-being, gain respect for family identity, and address the racism that persists in the system.⁷¹ Georgia’s plan goes on for fifty-seven more pages with a detailed map of how to identify the needs and help children.

Georgia’s statutes similarly promote an underlying goal of prevention. Georgia’s statute provides that “DFCS shall give preference [for placement] to an adult who is a relative or fictive kin over a nonrelated caregiver, provided that such relative or fictive kin has met all requirements for a DFCS relative or fictive kin placement and such placement is in the best interest of the child.”⁷² Accordingly, this statute provides a simple avenue for a family member to have priority over the child’s placement. On the other hand, there are still additional boundaries requiring the family member to take steps to become a foster parent so that a child relative will not enter the Foster Care System. Considering this caveat, it remains evident that states are hesitant to lean into prevention services and Foster Care System avoidance.

The overuse of the Foster Care System has strained each entity, state, and individual involved. States currently have the tools to lessen this strain by shifting the focus to

68. Tenn. Code Ann. § 37-1-101(a)(3).

69. *Georgia Title IV-E Prevention Plan*, *supra* note 40, at 1.

70. *Id.*

71. *See id.*

72. O.C.G.A. § 15-11-135(e)(1).

prevention services and prioritizing families first. Candidly, States have been providing “in-home services to help families avoid foster care,” with “1,332,254 children receiv[ing] in-home or family preservation services in [] 2017 compared to only 201,680 children who received foster care services.”⁷³ The safety of children depends on the robust implementation of prevention services that provide family betterment and create a more equitable system that lightens the burden that the Foster Care System has developed from years of overuse.

V. ANALYSIS

As a solution, state agencies should first implement their prevention programs and aim for proactive change in communities at a higher risk of housing instability, homelessness, and a lack of resources. A state can begin strengthening communities through evidenced-based mental health, substance abuse, and parenting services in alignment with local needs.⁷⁴ By offering these services, the Welfare System in states can identify the needs of children at a quicker rate before a child must be placed with a family member, creating a lower risk of children being taken from their homes. As it stands, Child Protective Services workers are “often focus[ed] on the wrong things” and often “overlook the true essence of what is in front of [them] to engage in rudimentary queries about surface-level dynamics that do not get [them] to a genuine understanding of what is happening with families.”⁷⁵ Therefore, since these disparities must be identified much earlier, the focus must shift to a foundational level, the Child Welfare workers.

A standard limitation is recruiting and retaining qualified Child Welfare workers. States that continuously enter children into foster care are currently attempting to retain

73. Cohen, *supra* note 45.

74. See *Georgia Title IV-E Prevention Plan*, *supra* note 40, at 10 (explaining the current landscape of evidence-based practice in Georgia).

75. JESSICA PRYCE, *BROKEN: TRANSFORMING CHILD PROTECTIVE SERVICES* 2 (HarperCollins 2024).

more workers in a system that is deeply damaged. An alarming number of vacancies and staff turnover rates persist nationwide due to unreasonable child welfare workloads, insufficient staff support, and, most importantly, poor salaries.⁷⁶ Additionally, this “shortage of qualified practitioners and the dizzying staff turnover rate have created a high degree of ongoing instability within many agencies.”⁷⁷ “There is trauma in what professionals witness, what they endure, and also when they realize that their help is actually harm.”⁷⁸ States must invest in their workers to prioritize the safety of children, families, and workers, which they are acutely aware of but have yet to act on. From the perspective of a former Child Protective Service worker, “[d]oing CPS work often felt as if the strings that were attached to investigators and caseworkers led back to a dehumanizing mandate or an outdated policy or procedure.”⁷⁹ Currently, the environment cultivated in the Foster Care System is a mission that the workers themselves are damaged by and lack complete commitment to improving.

Shifting policies that align with statutes that prioritize families will create a more equitable and stable environment for children and families. Title IV-E's prevention services are limited by federal statute to children who are at “imminent risk” of foster care and are only reimbursable if the child is a “candidate for foster care.”⁸⁰ This means that the Child Welfare worker will often enter a situation at the most drastic times, forcing their hand to remove a child or, at

76. Paul DiLorenzo & Jeff Lukich, *Perspective: The Workforce Crisis in Child Welfare Might Be the Tip of the Iceberg*, CHILD WELFARE LEAGUE AM. [CWLA], <https://www.cwla.org/perspective-the-workforce-crisis-in-child-welfare-might-be-the-tip-of-an-iceberg/>.

77. *Id.*

78. PRYCE, *supra* note 75, at 2-3.

79. *Id.*

80. *Expectations, Limitations, and Reality: How the Family First Prevention Services Act Invests in Prevention and Supports Families*, DUKE L., https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://law.duke.edu/sites/default/files/centers/publiclaw/hughes_ffpsa_expectations_limitations_and_reality.pdf&ved=2ahUKEwjEn8GO9pWIAxWG5skDHWZ_I6QQFnoECBIQAQ&usg=AOvVaw2u8LpmOh7TEUxzAFEIgVdG.

worst, to dehumanize a parent based on a condition that they do not understand. This is an issue that cannot be avoided when the mission of the prevention plan is only to create a “declining number of children in foster care.”⁸¹ For example, when pressure is placed on child welfare workers to leave children in their homes, there are situations like in Maine where “the number of children in foster care slowed down, only growing by 12% between 2015 and 2019” while “the number of children experiencing maltreatment grew by 30%.”⁸² This becomes a huge issue when states must wait until a child is at risk of being placed in foster care because there is inevitably a scenario where the children’s safety is at risk.

Before specific programming is examined, a culture shift within the Child Welfare System must occur. Each family is unique, which means that solutions within the Child Welfare System should allow them to feel in control and a part of the reunification process.⁸³ Due to the way the system is arranged, Child Welfare workers see families that need their services as “categorically inferior to them,” enabling a damaging and one-sided narrative that creates a higher chance that they have a right to take a child out of that particular environment.⁸⁴ For this to change, there must be a shift to a system where workers engage with a family “in a way that centers compassion, that appreciates humanity of the people [they] are trying to help, and that realizes the limitations of the CPS playbook as it is currently written.”⁸⁵

States like Tennessee and Georgia remain behind the curve in implementing the solutions to each issue, but they have written robust prevention plans ensuring that families and children come first. The gap that exists here is almost undeniable because there are tools and developments of evidence-based programs that address the needs of foster

81. *The Failures and Future of the U.S. Foster Care System*, *supra* note 9.

82. *Id.*

83. PRYCE, *supra* note 75, at 6.

84. *Id.*

85. *Id.* at 237.

children, but there is no attention to allow these programs to work.⁸⁶ Further, there is a false idea that the foster care system is an “intervention that has the potential to make a difference.”⁸⁷ Evidently, state agencies are of the mindset that a bandage of money can correct the imperfections of the U.S. Foster Care System. However, the defectiveness of the System calls for an entire reorganization of priorities.

The only approach that will make a difference is family in partnership with the child welfare system, workers, and the community. “Efforts aimed at preventing future problems [] enhance human well-being, affirming the value of individual persons and promoting the well-being of society.”⁸⁸ Currently, the focus of the Welfare System is grounded in the approach that things will only be treated when there is a development of an illness or problem, and then, subsequently, prevention services are introduced to “ameliorate that problem.”⁸⁹ Social workers, fully equipped with all the skills necessary to enforce prevention services,⁹⁰ should “integrate micro, mezzo, and macro practice efforts across service systems and with allied health and social service professionals to effectively and efficiently address major problems of living within [a specific] environmental context.”⁹¹ In particular, the Child Welfare System has more than enough data on areas and problems that precede a child's placement into the Foster Care System.

The State Welfare System could easily identify high-risk problem areas and partner with mental health services, shelters, and resource centers to fill in the gaps of the prevalent issues highlighted throughout this article. To

86. See generally Phillip A. Fisher, et al., *Improving the Lives of Foster Children Through Evidenced-Based Interventions*, PUBMED CENT. (June 2009), <https://pubmed.ncbi.nlm.nih.gov/20396626/>.

87. *Id.*

88. Carrie W. Rishel, *Establishing a Prevention-Focused Integrative Approach to Social Work Practice*, 96 SAGE J. 125, 125 (2018).

89. *Id.* at 127.

90. See *id.* at 126 (noting that social workers are “uniquely prepared” to undergo integrative practice).

91. *Id.* at 127.

illustrate, the Foster Care System has served as a resource bank of data and information regarding families that enter and are at risk of entering the system, and now it is time to compile that data and use it for the betterment of families, releasing the strains that have hindered the U.S. Foster Care System. Additionally, Child Welfare workers must, “in accordance with the profession’s ethical standards,” use a “prevention-focused integrative approach” to work “collaboratively with [families] . . . to determine appropriate strategies related to prevention-focused goals.”⁹² This means that families must also do the work to help themselves after the social worker has done the work to understand and facilitate resources. “Child professionals are in the middle, with the federal and state oversight on one side and the families they serve on another[.] Along with the workforce, parents and families should be at the table as co-architects of the new system.”⁹³

Additional resources include “integration of mental and behavioral health services with primary care . . . child and parent services . . . mental health and substance abuse treatment . . . and the integration of school and community services.”⁹⁴ While there are obstacles with each method, there is visibly more damage for the Child Welfare System to stay the same.⁹⁵ The work for a more holistic family approach is necessary in all aspects, but most importantly, to re-establish the meaningfulness of social work for Child Welfare workers and the future of social work. States must reach out to families, implement holistic approaches, and collaborate to establish ownership, or states like Tennessee will continue spinning their wheels in the same direction and getting nowhere with every additional dollar they may or may not receive.

92. *Id.* at 128.

93. PRYCE, *supra* note 75, at 237.

94. Rishel, *supra* note 88, at 129.

95. *See generally id.*

CONCLUSION

Although it may be daunting for states to shift their views, resources, and priorities to the prevention of children entering foster care, it is necessary. As presented in this article, few federal funds and resources have cleared the path for a family-first focus by departments aiming to protect foster children. States, in turn, must do their part to proactively assess their community and identify communities at a higher risk of falling into the system. States like Georgia and Tennessee have programs, statutes, and guidelines to fulfill their prevention plans but have failed to implement this work proactively. “[T]o engage with families meaningfully and ethically, we need to understand the professionals and start the transformation process from within.”⁹⁶ The high turnover rates of Child Welfare Workers are based on the lack of proper mission, heavy case-loads, and feelings of doing more harm than good.

State-wide issues reflect different priorities within policy, laws, and budget increases. A shift to more preventative services will never work with the half-effort approach of states that have failed to execute prevention plans. Statutes, investigations, and community partnerships must reflect this shift. The research is in the hands of the states and will guide workers and the Child Welfare System to the sources of the issues rooted in environmental and social injustice. The answer is a rigorous effort to carve out necessary services for children and families first by bringing them to the table and enabling them to regain their power. The best place for a child is in the comfort of their homes, with their families, and equipped with the resources needed to thrive.

96. PRYCE, *supra* note 75, at 230.

