



Senate Finance Committee Hearing on Youth Residential Treatment Facilities: Examining Failures and Evaluating Solutions

Hearing on June 12, 2024

Organizational Statement

Children's Rights
88 Pine St, Suite 800
New York, NY 10005

Sandy Santana, Executive Director
ssantana@childrensrights.org

Shereen A. White, Director of Advocacy & Policy
swhite@childrensrights.org

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Chairman Ron Wyden, Ranking Member Mike Crapo, Members of the Senate Committee on Finance, and Senate Staff:

Children’s Rights is a national advocacy organization dedicated to improving the lives of children living in or impacted by America’s child welfare, immigration, juvenile legal, education, and healthcare systems. We use civil rights impact litigation, advocacy and policy expertise, and public education to hold governments accountable for keeping kids safe and healthy. Our work centers on creating lasting systemic change that will advance the rights of children for generations.

We commend the Senate Committee on Finance for launching an investigation into allegations of abuse and neglect at certain for-profit Residential Treatment Facilities (RTFs), for revealing its findings, and for bringing scrutiny and public attention to the larger issue of child institutionalization. Clinical research overwhelmingly tells us: children do better when living in a family setting and supported in their communities. Despite a growing movement nationally to drastically reduce or eliminate institutional placements, these placements are still used with alarming frequency. Every year tens of thousands of young people are locked in prison-like settings where they are abused, neglected, and denied vital services.

THE HARMS OF INSTITUTIONALIZATION

The unnecessary placement of children in institutions and other group settings is one of the most pernicious ways that child-serving government systems inflict violence on children. Ending this brutal practice is a priority for Children’s Rights, and we are using every advocacy and legal tool at our disposal to do so.

In 2021, Children’s Rights, along with our partners, sparked a national movement to end the unnecessary institutionalization of children. Our seminal [Families over Facilities](#) report details the violations of children’s civil and human rights and the significant cost to taxpayers. Our findings echo Senator Wyden’s description of “taxpayer-funded child abuse,” which he described as “like something out of a horror novel.” We’ve read that book. We have witnessed the violations of children’s human and civil rights in state systems fueled by federal taxpayers’ dollars.

Institutions are inherently dangerous places for children. Yet over 50,000 children in the US are living in congregate, juvenile detention, and other group settings instead of loving homes, while thousands more migrant children are detained by the federal government in brutal facilities. Many will experience physical violence, dismal living conditions, and inhumane, traumatizing treatment. Institutional settings expose youth to the use of physical and chemical restraints and seclusion; physical and sexual abuse; deprivation of family relationships; inadequate education; profound stigmatization; loss of identity; and loneliness. Our [“Are You Listening?”](#) report provides first-hand accounts of these experiences, and informs our support of a [youth-led collaborative](#) of lived experts and advocates calling on New York legislators to stop institutionalizing kids and instead strengthen access to community services and supports that prioritize families and communities.

Healthy child development requires a nurturing environment. Children who spend even brief periods in institutions experience [worse outcomes](#) as adults than their peers. Young adults placed in institutions and group facilities who age out of the foster system are more likely to be involved

in the [criminal legal system](#), [have their education interrupted](#), and [suffer economic hardships](#). The human cost falls heavily on [LGBTQ+ youth](#) and youth of color, especially [Black children](#), who are disproportionately investigated by child protective services, unnecessarily removed from their families, and placed in institutions. There are also massive direct and indirect economic costs associated with institutionalization. Institutions and group facility placements typically cost [seven to ten times more](#) for a child than family-based placements. Some estimate that child welfare systems incur nearly [\\$4.1 billion in avoidable costs](#) associated with the abysmal outcomes when youth housed in group facilities “age out” or exit state custody. Reducing the use of institutions and group facilities results in significant savings that can be [reinvested to support prevention, preservation, and family placements](#) (especially with kin).

FAMILY FIRST MUST MEAN FAMILIES FIRST

The Senate Finance Committee investigation and hearing provide ample evidence that it’s time to shut down these brutal facilities and stop those who would profit from the mistreatment of children. Instead of focusing on how to make inherently bad places better, the federal government must meaningfully consider policies and practices that can provide families with the community supports that really do put “family first.”

1. The Federal Government Must Work to Keep Families Together

Every day, the U.S. government, through state child welfare agencies, unnecessarily removes far too many children from their homes. In 2021, [62% of children](#) removed from their families were removed because of “neglect.” According to a January 2021 [memo by the U.S. Administration for Children and Families](#), “neglect” removals—including removals for “inadequate housing” or “failure to provide adequate nutrition”—are often the result of families living in conditions of poverty.

We have proposed a [sweeping plan](#) to dramatically and safely reduce the number of children entering the foster system through a series of high-impact legal, legislative, and policy recommendations concentrated on the front end of a child’s journey into government custody, and ultimately to being placed in harmful institutions. Our [call](#) to end the unjust surveillance, investigation, and separation of Black families has been endorsed by advocates and policymakers across a wide spectrum of political perspectives. At the state, national and international levels we are working to amend or eliminate child welfare laws and practices that result in unjust removals and the placement of children in institutional facilities, and instead ensure that families receive the community supports and services that can keep their children safe, at home, and thriving.

2. Federal Funding Must Support Keeping Families Together

In a May 2024 Senate Finance Committee hearing on Family First, [Chairman Wyden acknowledged](#), “a good place to start is making sure kids can remain with their families whenever possible.”

Although the passage of the Family First Prevention Services Act in 2018 ended federal funding for many non-therapeutic group placements, [they are still used](#) with alarming frequency.

Congregate settings can still receive federal funding beyond two weeks if they meet the requirements of a qualified residential treatment program (“QRTP”). The children and youth held in QRTPs are often [subjected to the same abusive practices](#) –isolation, inadequate therapeutic treatment, poor and unregulated education – as their institutionalized counterparts.

Some of the worst practices can be found in states that are willing to fund institutions that do not meet QRTP standards. For example, in New York the majority of youth in congregate placements are *not* in QRTPs. As of June 2024, more than half of the congregate population is currently placed in unspecified settings (these include shelters), which do not have to comply with QRTP program requirements. Oversight of existing institutions is important, but these facilities – QRTPs or otherwise – are not the solution. Children have a right to be with their families, and the allocation of child welfare and Medicaid funding should reflect this goal by investing in families and communities.

Family First also provides new funding streams for family and community-based services, leveraging Title IV-E funds to prevent family involvement in the child welfare system. This is a critical start, but we must do much more. Stopping government overreach into the lives of families by eliminating unnecessary removals and increasing family preservation and kinship placement and support will require a substantial reallocation of funds to communities even beyond what Family First provides.

To keep families together safely will require meaningful federal investments in resources for families and community supports and services, including tapping funding streams outside of child welfare. One solution is to reapportion existing Child Abuse Prevention and Treatment Act (CAPTA) funding to direct family support and community-based services by reallocating funding from Title I (state grants) to Title II (Community-Based Child Abuse Prevention–CBCAP). Reallocating funding from state grants to CBCAP, and ensuring this funding is de-linked from state or local child welfare agencies, would strengthen and multiply community assets by investing in local projects and organizations.

This reorientation of CAPTA funding will not only support healthy families and thriving children; it will save money and put our public resources to better use in the long term. Investing in families and in neighborhoods can reduce health disparities, improve educational outcomes, and reduce the well-documented harms of family policing on economically and resource-deprived American families.

3. Medicaid and Other Federal Funding Must be Used to Build In-Home and Community Supports and Services for Children and Families

In the courts, Children’s Rights has brought [several lawsuits](#) focused on ensuring [Medicaid-eligible children](#) have access to the in-home and community mental and behavioral health supports that they need and have a right to under law.

Due to the lack of home and community-based mental health services, Medicaid-eligible children across the United States languish as their mental health conditions deteriorate. Without intensive services in their homes and communities, children with mental health conditions are unnecessarily

placed in psychiatric hospitals and similar institutions for extended periods, where they are separated from their families and communities and fail to thrive. The benefits of home and community-based mental health services have been borne out by expert medical opinion and court decisions across the country. Such services are vital and result in the best long-term outcomes for children, including significant improvement in their quality of life, improved school attendance and performance, increases in emotional and behavioral strength, more stable living situations, reduced suicide attempts, and fewer contacts with law enforcement.

As the community-based service array increases, the pipeline into institutions and group facilities will decrease. At the same time, efforts to depopulate existing institutions and group facilities will yield short and medium-term successes and savings that will increase over time. New IV-E funding and cost savings can be re-invested into family preservation, community-based services, and supporting family-based placements for the dwindling population of children and youth for whom placement in the foster system might remain necessary.

CONGRESS MUST TAKE ACTION

The Committee has put the spotlight on a pervasive national shame that must be corrected. We reiterate our call for ending the use of harmful and unnecessary institutions and other group facilities in child welfare systems and offer the following recommendations:

1. End Unjust Family Separation and Work to Keep Families Together

Nationally, 62% of children are removed from their families for reasons of neglect, which the federal government has concluded is all too often conflated with poverty. Preserving and supporting families and communities will put families first and prevent youth from entering the foster system. The federal government must make every effort to keep children at home, prevent removals, and increase supports for children and families in their homes and communities; adopt policies that increase financial and social supports to help families stay together in the first place, such as expanding the availability, affordability, and access to community mental health resources, child care, and housing; reinvest savings from depopulating congregate settings into preserving families; and increase utilization of, and remove barriers to, kinship placements for youth when they absolutely cannot remain at home.

2. Depopulate Existing Institutions and Group Facilities and End Institutionalization

The unnecessary placement of children in institutions and group facilities must be eliminated. We can do this by developing an infrastructure to promote family stability and justice for children, now and into the future. The risk of harm is too great to spend more time and resources hoping for a different outcome. No child belongs in an institution. It's time to shift our focus and our resources to assessing the individual needs of young people driven into these settings and, in partnership with youth and families, take steps to plan their safe return to their homes and communities. Furthermore, eliminating the use of institutions and group facilities will result in significant cost savings that can be reinvested in family preservation and family placements (especially with kin).

3. Leverage Medicaid and Other Federal Funding to Build In-Home and Community Supports and Services for Children and Families

Access to intensive home and community-based mental health services – including intensive care coordination, in-home behavioral supports, and police-free mobile crisis intervention – is critical for keeping Medicaid-eligible children and youth at home and out of psychiatric hospitals and institutions. The federal government has a financial interest in ensuring states are providing the services required by Medicaid laws and the Americans with Disabilities Act and investing in community and in-home mental and behavioral health services and support.

The federal government should also right-size CAPTA appropriations by reallocating funding from Title I (state grants) to Title II (Community-Based Child Abuse Prevention–CBCAP) to prioritize family support over family separation. This reallocation should include clear eligibility and implementation criteria to ensure that federal dollars provided under CAPTA, and their state and local matches, are de-linked from state and local child welfare agencies and are used for direct financial and material support for families and communities.

Eliminating the policies, practices and billion-dollar industry whose business model has resulted in the trauma, abuse and neglect and even death of children, must be pursued with great urgency. Ending “taxpayer-funded abuse” is thoroughly achievable with policies and funding that prioritize community and family support, and the recommendations outlined here build on the intent of Family First, while also demanding bolder action in order to meet the urgency of this issue.