

## CHILDREN AND FAMILIES

# Child Welfare Reform

Strategies for Limited and Appropriate Use of Congregate Care



Approximately 443,000 children and youth were in foster care in 2017. Thirteen percent of them resided in a congregate or group care settings. According to a literature review by San Diego State University, congregate care settings are more expensive and are associated with higher levels of emotional and behavioral problems and poorer educational outcomes than family-based settings. Child welfare experts and researchers agree that placing children and youth in family-based settings produces the better outcomes.

This guide provides legislators and legislative staff with strategies for overcoming the challenges of reducing reliance on congregate care and increasing use of family-based care.

## Family First Prevention Services Act

The federal Family First Prevention Services Act signed into law in 2018 seeks to curtail using congregate care for children and youth. Family First limits the use of Title IV-E funds for children and youth placed in non-family settings and creates Qualified Residential Treatment Programs (QRTP) as a new federal classification of congregate care facilities.

### About the Survey

NCSL surveyed 53 members from November 2020 to March 2021 to better understand the national landscape around Family First. Thirty-four legislators completed the survey — 18 Democrats and 16 Republicans — and most reported a high degree of familiarity with Family First and a medium to high degree of involvement with its implementation in their state.

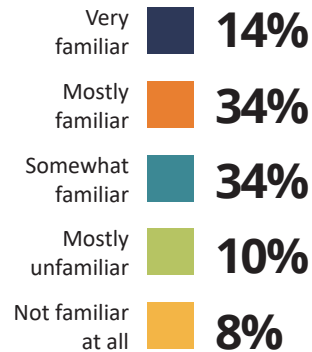
Based on what you know about the Family First Act, do you think its impact will be?



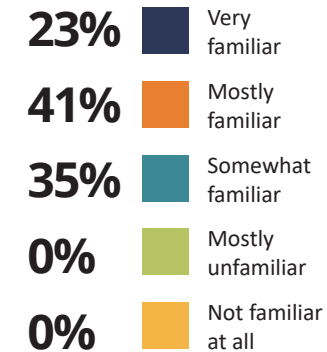
## Survey Results

NCSL surveyed its members in November, 2020, to better understand the national landscape surrounding Family First. Thirty-four members completed the survey and most reported a high degree of familiarity with Family First and a medium to high degree of involvement with its implementation in their state.

### How familiar are you with the provisions of the Family First Prevention Services Act?



### How familiar are you with your state's efforts to implement Family First?





## Legislators' Roles

State legislators play a vital role in implementing Family First by appropriating funds, convening work groups and task forces, aligning state statutes with federal requirements, instituting policies that reduce the need for congregate care and developing appropriate congregate care infrastructure.

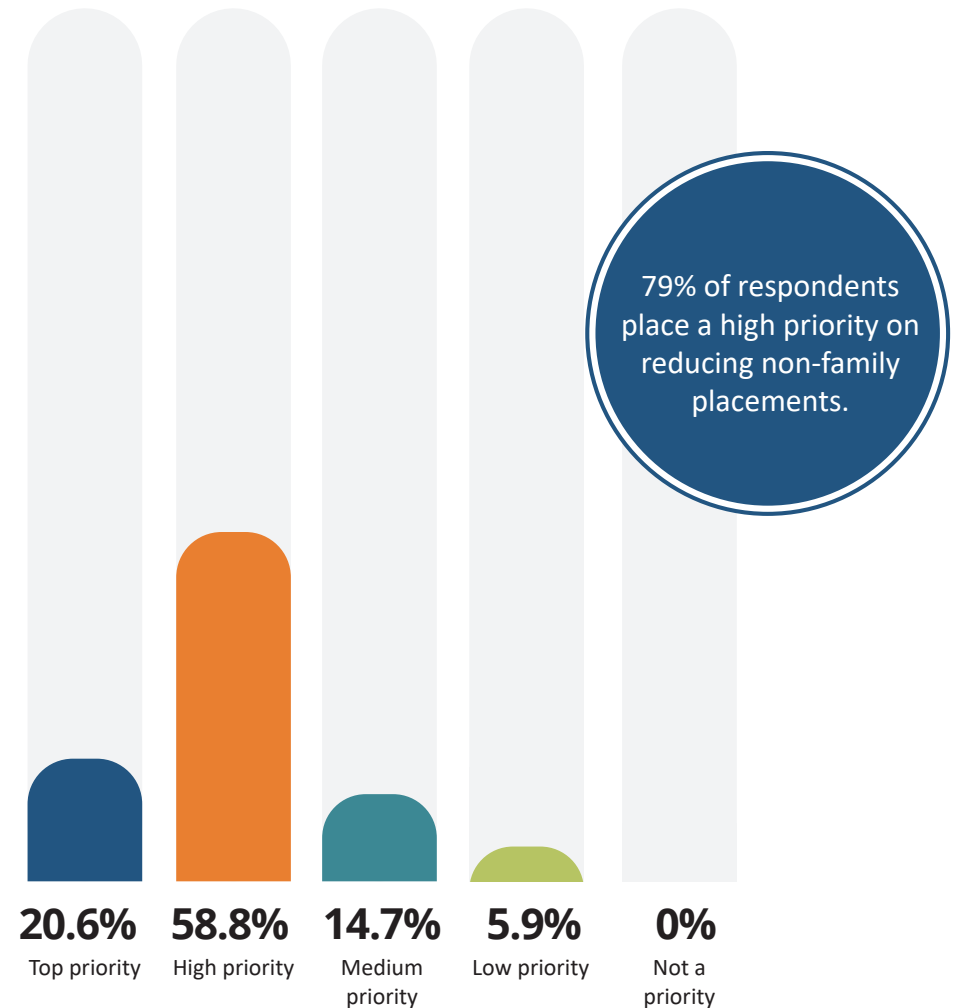


## Meeting a New Standard for Care

Quality Residential Treatment Programs (QRTPs) must meet the [federally prescribed requirements](#) for assessments, case plans, documentation, judicial determinations and court review of placements. Under Family First, all other group care settings may only receive federal payments for up to two weeks.

To offset the decreased use of congregate care facilities, states are now eligible to use Title IV-E funds for approved evidence-based programs and services that would prevent placing children and youth into the foster care system.

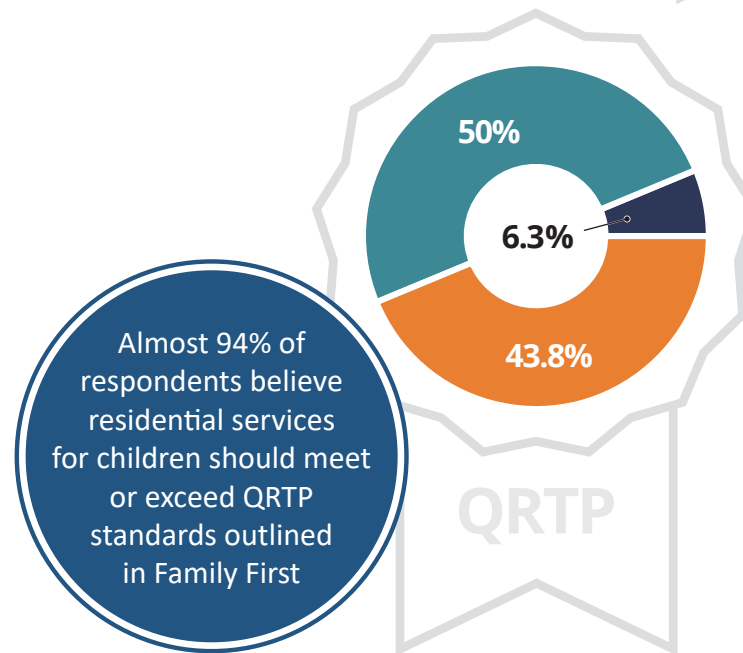
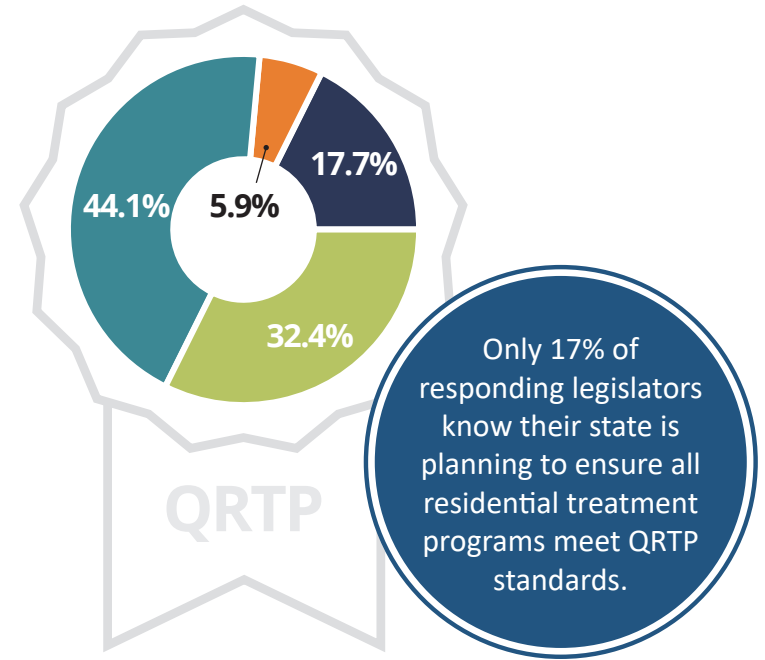
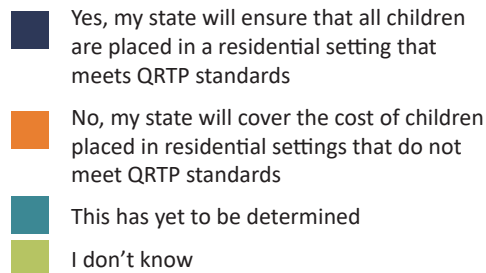
**When thinking about child welfare reforms, how high of a priority should your state and local child welfare agencies place on reducing non-family placements?**



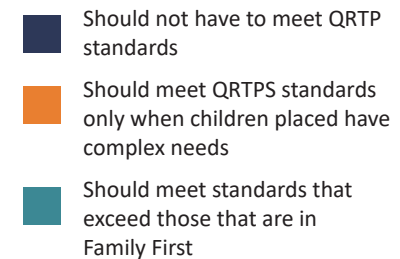
## Making the Transition

States that have begun implementing Family First report financial and capacity barriers to reducing the use of congregate care and developing prevention-focused infrastructure.

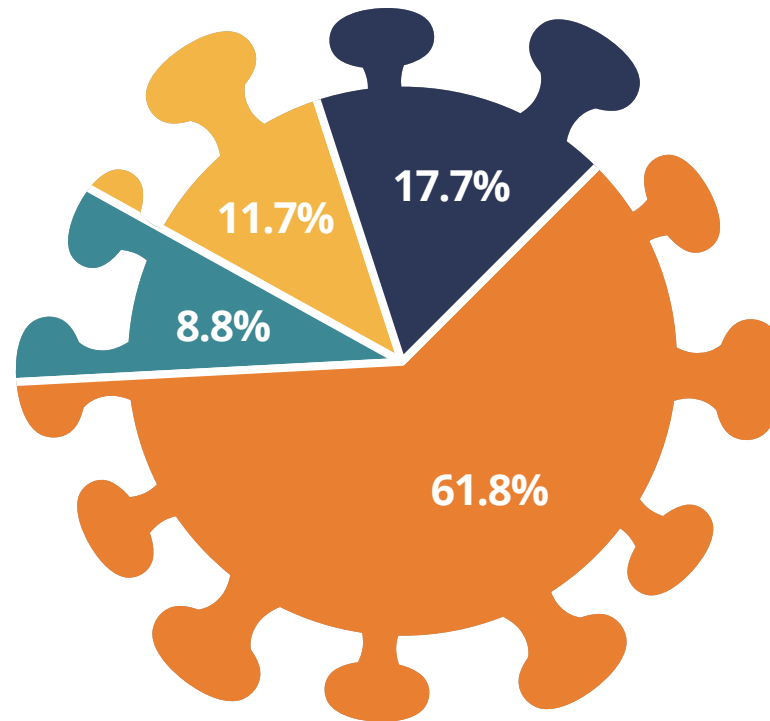
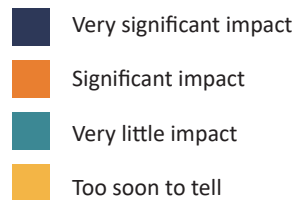
**Is your state planning to ensure that all programs providing residential services to children in foster care meet QRTP standards?**



**Programs in my state that provide residential services to children in foster care:**



**How significantly has COVID-19 affected your state's ability to conduct planning and implementation around Family First?**



Nearly 80% of responding legislators surveyed indicated that COVID-19 has significantly or very significantly affected their state's ability to plan and implement Family First.

## COVID-19 Slows Progress

The COVID-19 pandemic has complicated and delayed progress on Family First's significant philosophical and structural shift. Of the approximately 50 Family First-related bills introduced in the 2020 legislative session, only 15 were enacted. This contrasts with the roughly 80 bills introduced and more than 50 enacted in 2019.

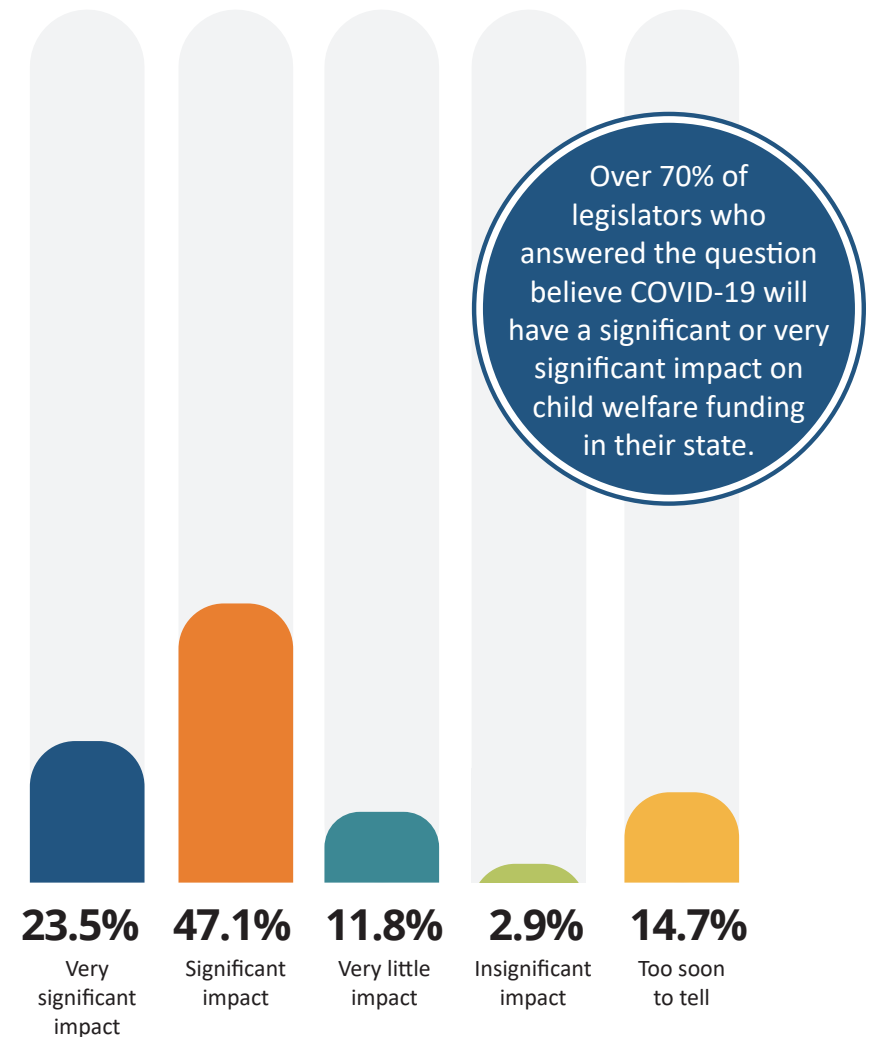


## Funding the Transition

In early 2020, Congress appropriated [\\$500 million](#) for a one-time transition fund states can use for programs, services and operational costs associated with implementing Family First. Three percent of funding must be set aside for Native American tribes, and the rest is allocated based on the Title IV-B [Stephanie Tubbs Jones Child Welfare Services](#) funding formula.

These funds are available through the end of **federal fiscal year 2021** and may not be used to match other federal funds. Legislators are encouraged to work with their child welfare agencies to maximize use of these transition funds.

**How significant of an impact do you anticipate COVID-19 will have on funding for your state's child welfare system?**



## Convening Stakeholders

Colorado was the first state to take legislative action regarding Family First with [SB 18-254](#). In addition to requiring an analysis and cost projection of the fiscal impact of Family First, SB 18-254 created a child welfare services task force to analyze state laws and rules to ensure alignment



with the federal legislation. The Colorado Family First Prevention Services Act Advisory Committee included county commissioners and program staff, relevant department staff, members of the judicial branch, and child welfare providers.

Iowa's [HF 766](#) similarly formed a work group to determine the impact and role of Family First and recommend statutory and administrative policies and rules to coordinate the duties of the work group with implementation and administration of the federal act. States don't need to pass legislation to guide implementation of Family First.

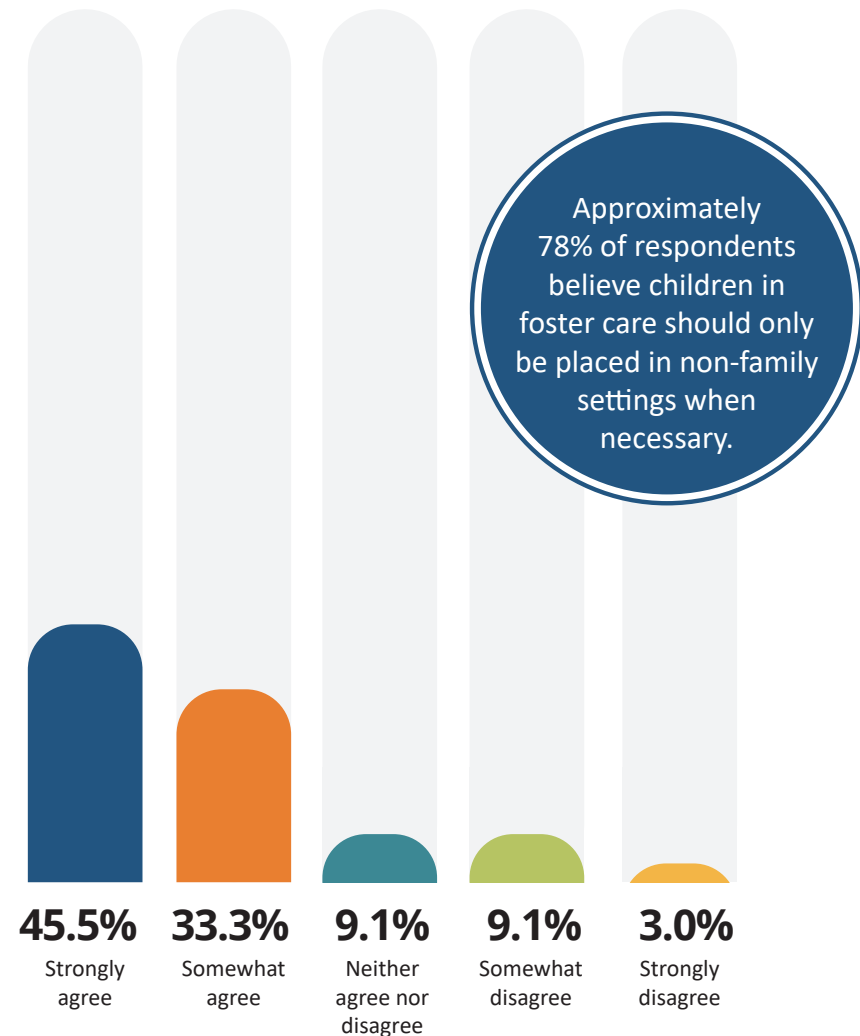
[Oregon's](#) Senate Human Services Committee established a policy work group to address policy, budget and communication needs related to Family First.

## Preparing for a Reduction in Congregate Care Funding

The federal government is encouraging states to prepare for a reduction in funding for congregate care in October 2021 in two primary ways:

1. Reducing their underlying need—or perceived need—for congregate care.
2. Increasing the number of family-based settings available as alternatives to congregate care.

**I believe that children in foster care should only be placed in non-family settings (e.g., shelters, group care, residential treatment) when such placements are therapeutically or medically necessary.**



## Using Data to Inform Decisions



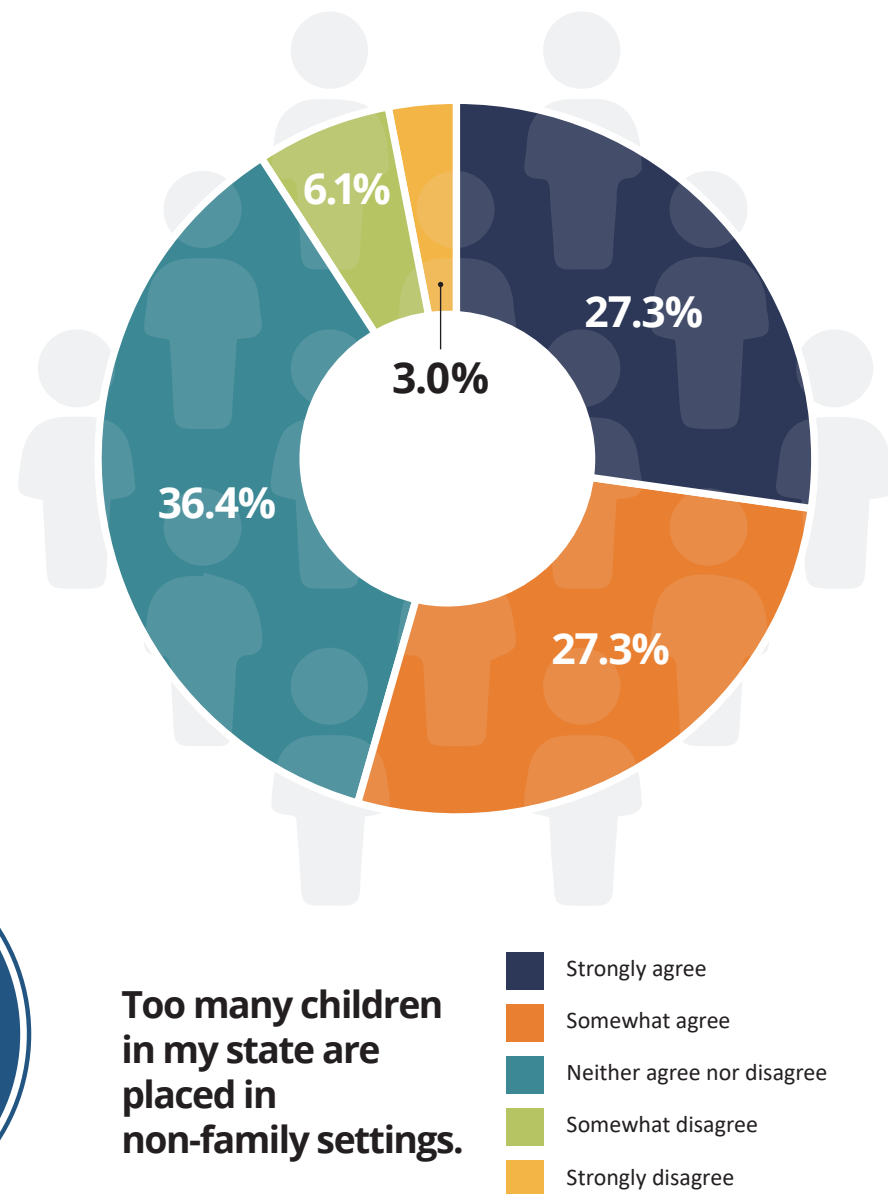
Collecting data on their state's capacity to provide family-based placements is a good first step for legislators. [New York's](#) collection, analysis and public dissemination of critical data is an example of how one state is using data to inform decision-making. New York reports the amount of Title IV-E reimbursement counties receive, the number of family-based settings available and the types of placements where children and youth reside. Legislators and child welfare agencies can use this information to determine what policies and practices are necessary to ensure children and youth are placed appropriately.

## Strategies to Reduce Use of Congregate Care

Family First supports the following strategies to reduce states' reliance on congregate care:

1. Increasing use of kinship care.
2. Recruiting and retaining foster families.
3. Prioritizing use of prevention services and programs.

Nearly 55% of respondents believe that too many children in their state are placed in non-family settings.



## Kinship Navigators Show the Way



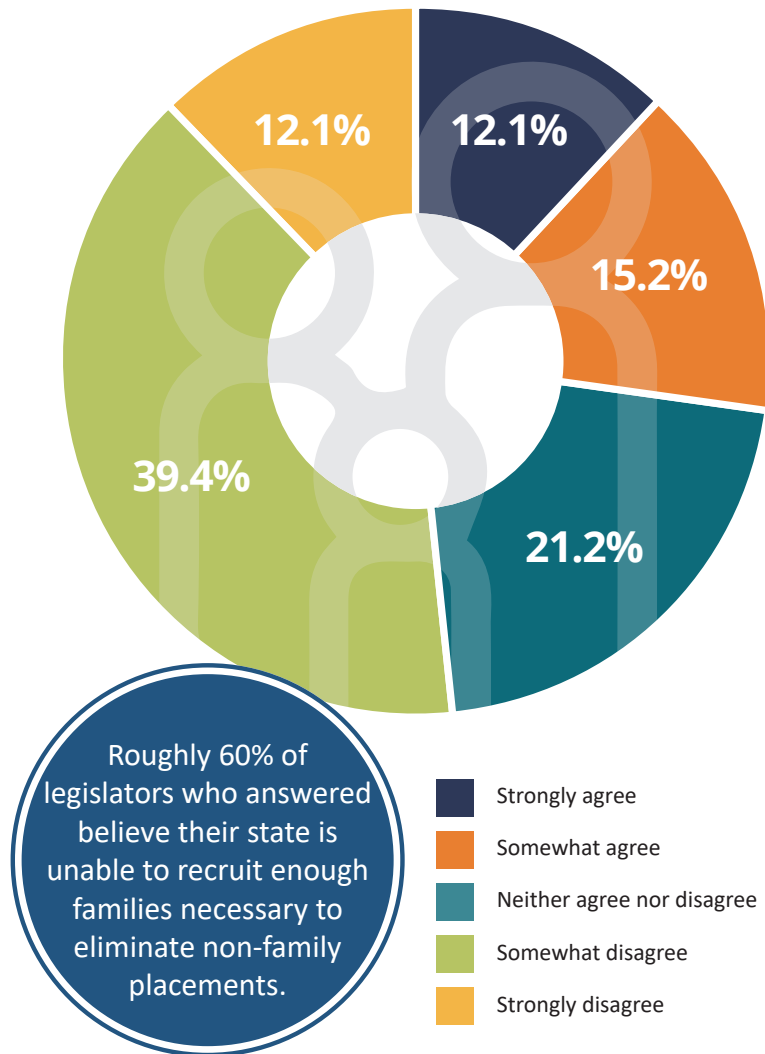
Under Family First and the Consolidated Appropriations Act of 2021, state child welfare agencies can receive full federal reimbursement through September 2021 for kinship navigator expenditures that meet certain [requirements](#).

[Kinship care](#), as defined by the Child Welfare Information Gateway, refers to “the care of children and youth by relatives or, in some jurisdictions, close family friends.” [Kinship navigator programs](#) promote the use of kinship care by helping family caregivers find and use programs and services that support the needs of the children and youth in their care.

[Research](#) by James Bell Associates found these programs promote safety, permanency and the well-being of kinship families. A five-year [evaluation](#) of Florida’s 2012 kinship navigator program found that 99% of participants did not enter the child welfare system within their first 12 months and that the program was less expensive than residential group care.



**I believe that my state can recruit enough families necessary to eliminate non-family placements.**



## Recruiting and Retaining Foster Families

Research indicates 30% to 50% of foster families left the program within their first year. Legislators can support policies that promote the recruitment and retention of foster families. For instance, West Virginia's HB 2010 aims to ensure access to physical and mental health services for children and youth in care by moving the foster care population to a managed care health system. To support the recruitment and retention of high-quality foster families, Congress appropriated \$8 million in competitive grants available to states through 2022. Lawmakers with an interest in these federal funds are encouraged to work with their child welfare agencies to pursue and guide the use of the funds.

## Preventing Unnecessary Removal of Children

Increased use of prevention programs and services is Family First's underlying strategy for reducing the use of unnecessary congregate care. States can use Title IV-E funds for in-home parenting programs, mental health services and substance abuse prevention and treatment services to prevent the placement of children and youth into the foster care system.

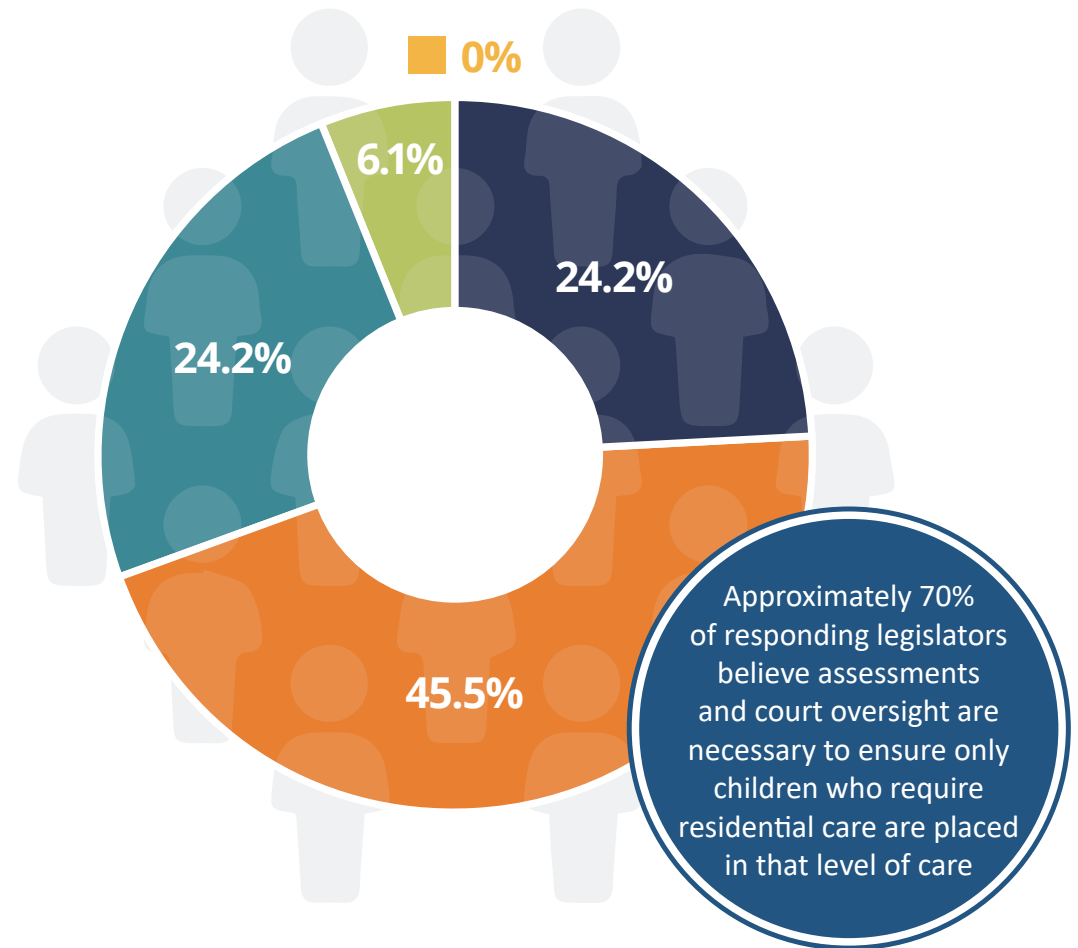
These programs and services must be rated as "promising," "supported" or "well-supported" by the [Prevention Services Clearinghouse](#). States can also conduct an independent systematic review and assign their own temporary designation to receive [transitional payments](#). States must include all programs and services for which they hope to receive funding in their five-year Title IV-E prevention plan required by the U.S. Department of Health and Human Services.

The [District of Columbia's](#) approved five-year prevention plan contains examples of eligible services and programs. Some state legislatures will need to provide additional authorization to their child welfare agencies, such as Colorado's [HB 19-1308](#), which authorizes its Department of Human Services to establish and implement a foster care prevention services program.

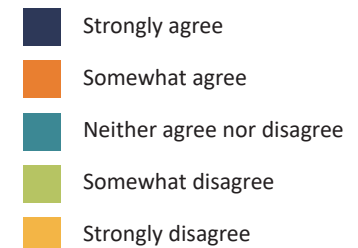
## Strategies to Reduce Use of Congregate Care

Lawmakers can help their child welfare agencies implement Family First by:

1. Outlining appropriate use of congregate care in state statute.
2. Mandating court oversight of non-family placements.
3. Defining a QRTP in state statute.
4. Assessing their state's QRTP capacity.
5. Aligning capacity with actual needs.



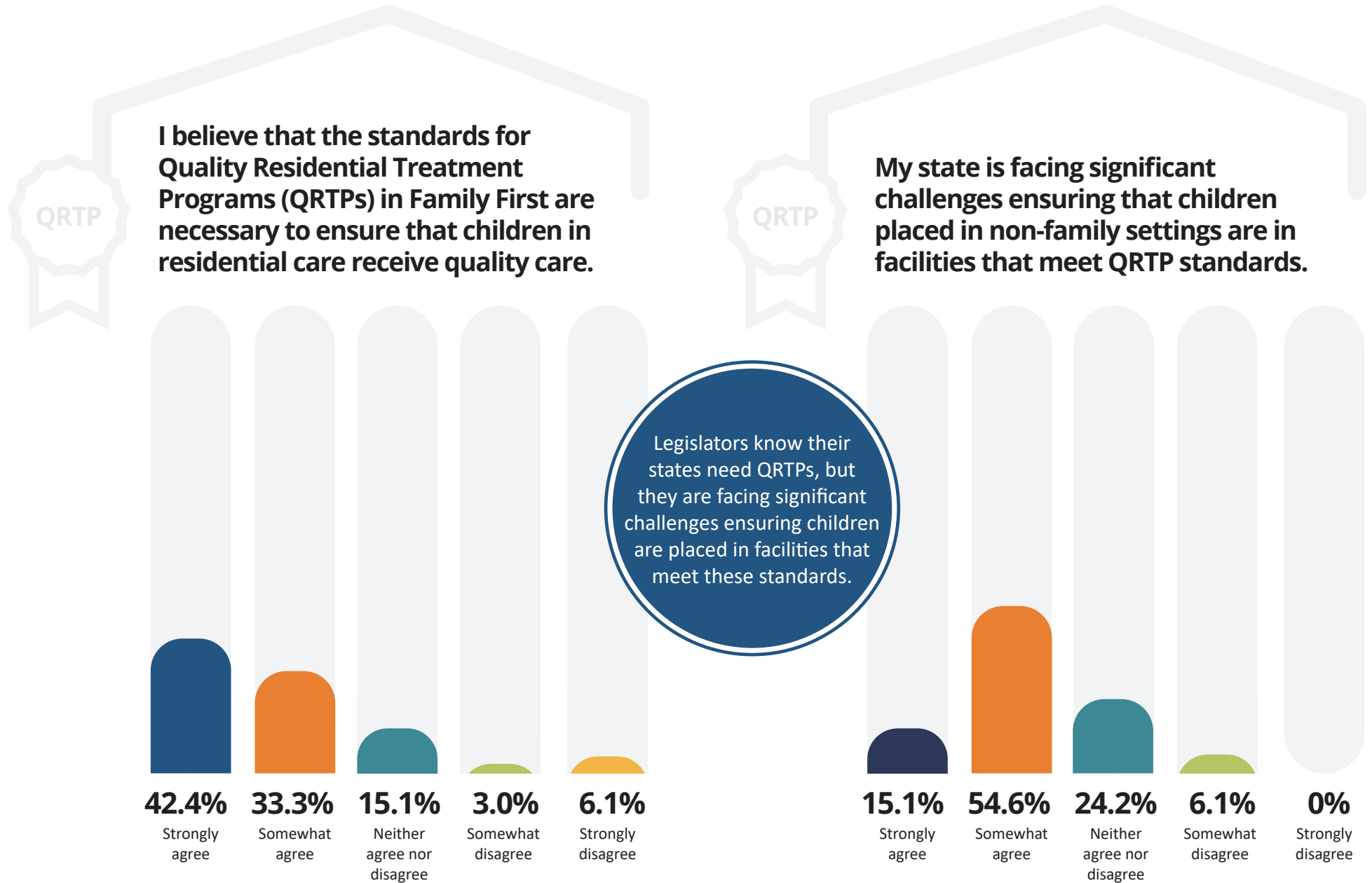
**I feel that the requirements for assessment and court oversight in Family First are necessary to ensure that only children that require residential care are placed in this level of care.**



## Quality Residential Treatment Programs

In 2019, the Kansas Legislature enacted [HB 2103](#) to align the state's definition of a QRTP with the federal definition and to provide guidance for the appropriate use of congregate care. Kansas law now requires ongoing assessments of the strengths and needs of children and youth placed in QRTPs. It also requires courts to continuously determine whether the needs of a child are best met in the non-family placement, and, if so, that the placement is the least restrictive environment possible.

Georgia's [HB 30](#) provides funds to assess the readiness of congregate foster care settings to become accredited QRTPs. Illinois' [HB 2154](#) adopted many of the policy options discussed in this guide. It calls for a review of the previous five years of child welfare data to determine the state's needs and capacity for developing QRTPs. It also requires a work group to develop a plan for improving access to prevention services and programs, and it appropriates necessary funds.



## Summary of Actions Legislators Can Take



- Authorize implementation of Family First in your state.
- Appropriate state funds and take advantage of federal funding options.
- Convene task forces and work groups, with or without legislation.
- Require state agencies to collect data on your state's capacity to provide family-based placements.
- Increase use of kinship care through kinship navigator programs.



## Summary of Actions Legislators Can Take



- Improve recruiting and retention of foster families.
- Prioritize use of prevention services and programs.
  - In-home parenting programs
  - Mental health services
  - Substance abuse prevention and treatment services
- Require assessments and court oversight of congregate care placements.
- Require state agencies to develop rules for the operation of QRTPs.

NCSL Contact:

**Jerard Brown**

Research Analyst II

303-856-1552

[jerard.brown@ncsl.org](mailto:jerard.brown@ncsl.org)



**Tim Storey, Executive Director**

7700 East First Place, Denver, Colorado 80230, 303-364-7700 | 444 North Capitol Street, N.W., Suite 515, Washington, D.C. 20001, 202-624-5400

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