§ 409-a. Preventive services; provision by social services officials. 1. (a) A social services official shall provide preventive services to a child and his or her family, in accordance with the family's service plan as required by section four hundred nine-e of this chapter and the social services district's child welfare services plan submitted and approved pursuant to section four hundred nine-d of this chapter, upon a finding by such official that (i) the child will be placed, returned to or continued in foster care unless such services are provided and that it is reasonable to believe that by providing such services the child will be able to remain with or be returned to his or her family, and for a former foster care youth under the age of twenty-one who was previously placed in the care and custody or custody and guardianship of the local commissioner of social services or other officer, board or department authorized to receive children as public charges where it is reasonable to believe that by providing such services the former foster care youth will avoid a return to foster care or * (ii) the child is the subject of a petition under article seven of the family court act or by the probation service, to be at risk of being the subject of such a petition, and the social services official determines that the child is at risk of placement into foster care or

* NB Effective until June 30, 2027

* (ii) the child is the subject of a petition under article seven of the family court act, or has been determined by the assessment service established pursuant to section two hundred forty-three-a of the executive law, or by the probation service where no such assessment service has been designated, to be at risk of being the subject of such a petition, and the social services official determines according to standards promulgated pursuant to section three hundred ninety-eight-b of this chapter that the child is at risk of placement into foster care. Such finding shall be entered in the child's uniform case record established and maintained pursuant to section four hundred nine-f of this chapter. The commissioner shall promulgate regulations to assist social services officials in making determinations of eligibility for mandated preventive services pursuant to clause (ii) of this paragraph.

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(iii) the child is under the age of twelve, the child does not fall under the definition of a juvenile delinquent pursuant to subparagraph

(iii) of paragraph (a) of subdivision one of section 301.2 of the family court act and but for their age, their behavior would bring them within the jurisdiction of the family court pursuant to article three of the family court act, and the social services official determines that the child is at risk of placement into foster care. Such finding shall be entered in the child's uniform case record established and maintained pursuant to section four hundred nine-f of this article. The commissioner shall promulgate regulations to assist social services officials in making determinations of eligibility for mandated preventive services pursuant to this subparagraph.

(b) When a child and his family have received preventive services for a period of six months pursuant to this subdivision, the social services official shall continue to provide such services only upon making a new finding that the child will be placed or continued in foster care unless such services are provided and that it is reasonable to believe that by providing such services, the child will be able to remain with or be returned to his family. Such new finding shall be entered in the child's uniform case record established and maintained pursuant to section four hundred nine-f of this chapter.

2. A social services official is authorized to provide preventive services to a child and his family to accomplish the purposes set forth in section four hundred nine of this chapter, when such services are not required to be provided pursuant to subdivision one of this section.

3. * (a) A social services official is authorized to provide community preventive services to communities likely to benefit from such services to accomplish the purposes set forth in section four hundred nine of this chapter. Social services officials may apply to the office of children and family services for waiver of eligibility and administrative requirements for preventive services to be provided pursuant to this subdivision. Such application shall include a plan setting forth the services to be provided, the persons or community that will receive the services and the estimated cost of such services. Upon approval of the application by the office of children and family services, eligibility requirements established in statute or regulation may be waived for those persons and communities identified in the plan

as recipients of the services set forth in the plan. Where services are administered pursuant to a plan approved by the office of children and family services, the office of children and family services may waive the requirements of section four hundred nine-f or four hundred forty-two of this article.

* NB Effective until June 30, 2027

* (a) A social services official is authorized to provide community preventive services to communities likely to benefit from such services to accomplish the purposes set forth in section four hundred nine of this chapter. Social services officials may apply to the department for waiver of eligibility and administrative requirements for preventive services to be provided pursuant to this subdivision. Such application shall include a plan setting forth the services to be provided, the persons or community that will receive the services and the estimated cost of such services. Upon approval of the application by the department, eligibility requirements established in statute or regulation may be waived for those persons and communities identified in the plan as recipients of the services set forth in the plan. Where services are administered pursuant to a plan approved by the department, the department may waive the requirements of sections one hundred fifty-three-d and three hundred ninety-eight-b of this chapter pertaining to denial or reimbursement. Where such a waiver is approved, the department approval must specify standards whereby services provided will be subject to denial of reimbursement. Where services are administered pursuant to a plan approved by the department, the department may waive the requirements of section four hundred nine-f or four hundred forty-two of this article.

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(b) The department must inform social services districts of procedures governing application for waivers of eligibility and administrative requirements and approval of waivers of eligibility and administrative requirements. Where such waivers are granted, the department shall have the authority to establish alternative standards to be followed by social services officials who are granted waivers by the department. Upon approval of an application for such waivers, the department approval must specify the requirements being waived and any alternative standards established.

(c) Community preventive services may be provided pursuant to this subdivision through demonstration projects to the extent the department makes funds available for such projects.

(d) The department shall develop an evaluation plan no later than April first, nineteen hundred eighty-eight, for community service demonstration projects and, subject to the approval of the director of the budget, may use up to five percent of the amount annually appropriated for project grants to conduct such evaluation which shall include but need not be limited to: an assessment of the effectiveness of various service delivery models in creating or enhancing linkages among school, housing, health, and income support services available in the community; the effectiveness of various preventive services in averting family disruption; the cost effectiveness of providing community focused preventive services; the impact of this service provision on requirements for more intensive mandated preventive services; and, the feasibility of replicating successful service models in other communities throughout the state.

4. Preventive services may be provided directly by the social services official or through purchase of service, in accordance with regulations of the department.

5. (a) Regulations of the department, promulgated pursuant to and not inconsistent with this section, shall contain program standards including, but not limited to: specification of services to be classified as preventive services; appropriate circumstances and conditions for the provision of particular services; appropriate providers and recipients of such services; and time limits, as may be appropriate, for the provision of particular services. The department shall, subject to the approval of the director of the budget, establish reimbursement or charge limitations for particular services or groups of services to be provided. The department shall also promulgate regulations to prevent social services districts from overutilizing particular forms or types of preventive services and to encourage districts to provide balanced preventive services programs based on the identified needs of children and families residing in such districts.

(b) The program standards promulgated pursuant to this subdivision

shall be developed with the participation of the child welfare standards advisory council established pursuant to section four hundred nine-h of this chapter and in consultation with public and voluntary authorized agencies, citizens' groups and concerned individuals and organizations, including the state council on children and families.

(c) Notwithstanding any other provision of this section, where a social services official determines that a lack of adequate housing is the primary factor preventing the discharge of a child or children from foster care including, but not limited to, children with the goal of discharge to independent living, preventive services shall include, in addition to any other payments or benefits received by the family, special cash grants in the form of rent subsidies, including rent arrears, or any other assistance, sufficient to obtain adequate housing. Such rent subsidies or assistance shall not exceed the sum of seven hundred twenty-five dollars per month, shall not be provided for a period of more than three years, and shall be considered a special grant. Nothing in this paragraph shall be construed to limit the ability of those using such rent subsidy to live with roommates. The provisions of this paragraph shall not be construed to limit such official's authority to provide other preventive services.

(e) (i) A social services official is authorized to establish and operate, or contract for the establishment and operation of, intensive, homebased, family preservation programs.

(ii) Notwithstanding any other provision of law, reimbursement for intensive, homebased family preservation services shall be limited to those programs that reduce or avoid the need for foster care of children who are in imminent danger of placement. Such programs shall employ caseworkers trained in family preservation techniques and who provide at least half of their direct services in the client's residence or temporary home, work with no more than four families at any given time, provide direct therapeutic services for up to thirty days which may be extended up to an additional thirty days per family and are available twenty-four hours a day. No program described herein shall receive reimbursement unless such program agrees to collect and provide to the department information necessary to evaluate and assess the degree to which such program results in lower costs to the state and to social services districts than those of foster care placement. Such information

shall be compiled in a manner that permits comparisons between families served by such programs and those families who meet eligibility criteria but who were not able to be served within available resources.

(f) Notwithstanding any other provision of law, where a social services official authorizes the provision of respite care, such care shall mean the temporary care and supervision of a child to relieve parents or other persons legally responsible for the care of such child where immediate relief is needed to maintain or restore family functioning.

6. In accordance with regulations of the department, where the child's family is able to pay all or part of the cost of such services, payments of such fees as may be reasonable or other third party reimbursement as may be available in the light of such ability shall be required. Expenditures subject to reimbursement pursuant to section four hundred nine-b of this title shall be reduced by the sum of all fees received or to be received pursuant to this subdivision.

* 7. Notwithstanding any other provision of this section, if a social services official determines that a lack of adequate housing is a factor that may cause the entry of a child or children into foster care and the family has at least one service need other than lack of adequate housing, preventive services may include, in addition to any other payments or benefits received by the family, special cash grants in the form of rent subsidies, including rent arrears, or any other assistance, sufficient to obtain adequate housing. Such rent subsidies or assistance shall not exceed the sum of seven hundred twenty-five dollars per month, shall not be provided for a period of more than three years, and shall be considered a special grant. Nothing in this subdivision shall be construed to limit the ability of those using such rent subsidy to live with roommates. The provisions of this paragraph shall not be construed to limit such official's authority to provide other preventive services.

* NB There are two sub 7's

* 7. Notwithstanding any other provision of law, preventive services information governed by this section may be released by the department, social services district or other provider of preventive services to a person, agency or organization for purposes of a bona fide research project. Identifying information shall not be made available, however,

unless it is absolutely essential to the research purpose and the department gives prior approval. Information released pursuant to this subdivision shall not be re-disclosed except as otherwise permitted by law and upon the approval of the department.

* NB There are 2 sub 7's

8. In contracting for the provision of preventive services, social services districts shall, to the extent feasible, place such services in areas with a high rate of child abuse and neglect and foster care placements. Social services districts shall, to the extent feasible, consider as a priority community-based organizations with a record of providing quality services to children and families in such communities.

9. (a) Notwithstanding any provision of law to the contrary, records relating to children pursuant to this section shall be made available to officers and employees of the state comptroller, or of the city comptroller of the city of New York, or of the county officer designated by law or charter to perform the auditing function in any county not wholly contained within a city, for purposes of a duly authorized performance audit, provided, however that such comptroller or officer shall have certified to the keeper of such records that he or she has instituted procedures developed in consultation with the department to limit access to client-identifiable information to persons requiring such information for purposes of the audit, that such persons shall not use such information in any way except for purposes of the audit and that appropriate controls and prohibitions are imposed on the dissemination of client-identifiable information obtained in the conduct of the audit. Information pertaining to the substance or content of any psychological, psychiatric, therapeutic, clinical or medical reports, evaluations or like materials or information pertaining to such child or the child's family shall not be made available to such officers and employees unless disclosure of such information is absolutely essential to the specific audit activity and the department gives prior written approval.

(b) Any failure to maintain the confidentiality of client-identifiable information shall subject such comptroller or officer to denial of any further access to records until such time as the audit agency has

reviewed its procedures concerning controls and prohibitions imposed on the dissemination of such information and has taken all reasonable and appropriate steps to eliminate such lapses in maintaining confidentiality to the satisfaction of the department. The department shall establish the grounds for denial of access to records contained under this section and shall recommend as necessary a plan of remediation to the audit agency, except as provided in this section, nothing in this subdivision shall be construed as limiting the powers of such comptroller or officer to records which he is otherwise authorized to audit or obtain under any other applicable provision of law, any person given access to information pursuant to this subdivision who released data or information to persons or agencies not authorized to receive such information shall be guilty of a class A misdemeanor.

10. All sums received by the state under section 201 of Federal Public Law 105-89 shall be paid to the districts in proportion to the amount earned by the district for federal adoption incentives and shall only be used to provide preventive services to a child and his or her family as defined in paragraph (a) of subdivision five of this section, in addition to those required by the maintenance of effort requirement contained in subdivision six of section one hundred fifty-three-i of this chapter, except that up to thirty percent of such sums may be used to provide post-adoption services to children or families. Preventive services shall include substance abuse treatment services provided to pregnant women or a caretaker person in an outpatient, residential or in-patient setting. Amounts expended by the state in accordance with this section shall be disregarded in determining the state's expenditures for purposes of federal matching payments under sections four hundred twenty-three, four hundred thirty-four and four hundred seventy-four of this chapter.

* 11. (a) The office of children and family services shall collect the following data regarding preventive services, as defined in section four hundred nine of this title, and compile an annual report on such data by local social services district:

(i) the total number of children and families admitted to or receiving a new service authorization for preventive services during the preceding calendar year;

(ii) the total annual number of unduplicated children and families receiving one or more days of preventive services including how many new preventive cases were opened during the preceding calendar year and to the extent such information is known and available after making all diligent efforts, the referral source for each new case;

(iii) the total number of children and families whose preventive services authorization was closed during the preceding calendar year;

(iv) a descriptive list of the services and their utilization rate, if practicable, in each local social services district which utilize preventive service funding as allowable under section one hundred fifty-three-k of this chapter;

(v) a descriptive list and their utilization rate, if practicable, of other preventive services provided by a local social services district that does not utilize preventive service funding pursuant to section one hundred fifty-three-k of this chapter. For purposes of this paragraph, other preventive services shall include but not be limited to primary preventive services which may be funded through community optional preventive services funding or home visiting funds;

(vi) the total number of children who entered foster care during the preceding calendar year who had received preventive services at any point during the twelve-months prior to their entry into foster care; and

(vii) any other information the commissioner may deem necessary to include in said report.

(b) The office of children and family services shall submit such report to the governor, the speaker of the assembly, the temporary president of the senate, the chairpersons of the assembly and senate children and families committees, the chairperson of the assembly ways and means committee and the chairperson of the senate finance committee starting no later than September first, two thousand twenty-one. Such report shall include data and information required by paragraph (a) of this subdivision for the preceding calendar year, to the extent such information is available. When practicable, such information shall be disaggregated by age, sex, race and ethnicity.

(c) The initial report shall include the aforementioned data from the preceding two calendar years.

* NB Repealed September 1, 2027