

Recommendations: Improving Virginia's Foster Care System

RECOMMENDATION 1

The General Assembly may wish to consider including language in the Appropriation Act directing the Virginia Department of Social Services to thoroughly review all the information collected through the agency case reviews conducted in 2017 and 2018 by regional staff, re-communicate all serious case-specific or systemic safety-related concerns identified in past reviews to the relevant departments of social services, communicate such concerns to the relevant local boards of social services, and work with local department staff to resolve all identified safety problems. The commissioner should be directed to submit a letter to the House Health, Welfare and Institutions Committee and the Senate Rehabilitation and Social Services Committee certifying that all safety-related concerns identified in the 2017 and 2018 reports have been resolved no later than November 1, 2019. (Chapter 2)

RECOMMENDATION 2

The Virginia Department of Social Services (VDSS) should convene a work group to address the underutilization of the CANS assessment in case planning and service provision for children in the foster care system. The work group should include case-workers, supervisors, and directors from all regions of the state. VDSS should report its findings and recommendations to the Virginia Board of Social Services no later than July 1, 2020. (Chapter 2)

RECOMMENDATION 3

The General Assembly may wish to consider amending § 63.2-200 of the Code of Virginia and including sufficient funding in the Appropriation Act to create a new position, director of foster care health and safety, within the Virginia Department of Social Services. (Chapter 2)

RECOMMENDATION 4

The Virginia Board of Social Services should promulgate regulations to require staff of local departments of social services to at least annually conduct a search for relatives of every child who (i) is not placed with relatives and (ii) has no clear permanent placement options. The amended regulation should further require that relative searches be conducted when a child's placement changes, if such a search has not been conducted in the 90 days prior. (Chapter 3)

RECOMMENDATION 5

The General Assembly may wish to consider amending Chapter 11 of Title 16.1 of the Code of Virginia to require juvenile and domestic relations courts to order the birth parents of children who have been removed from their homes to provide to local departments of social services contact information for all immediate relatives and extended family members. (Chapter 3)

RECOMMENDATION 6

The Virginia Department of Social Services (VDSS) should issue clear guidance that presents the options available to local departments of social services to facilitate the approval of relatives to serve as foster parents. Guidance materials should be issued to all local departments and regional VDSS staff. (Chapter 3)

RECOMMENDATION 7

The General Assembly may wish to consider amending Title 63.2, Chapter 9 of the Code of Virginia to require every local department of social services to provide semi-annually to the Virginia Department of Social Services a list of all licensed foster families who reside in their locality. The list should, at a minimum, include foster families' contact information, preferences regarding the age, number, and needs of children each family would consider fostering, key demographic information for each family, the number and ages of children each family is currently fostering, the total number of other children in each family's home and their ages, and biological relationships (if any) between each family and the children they are fostering. (Chapter 3)

RECOMMENDATION 8

The General Assembly may wish to consider including language in the Appropriation Act directing the Virginia Department of Social Services to develop and maintain a statewide strategic plan for recruiting and retaining foster families. (Chapter 3)

RECOMMENDATION 9

The General Assembly may wish to consider including language in the Appropriation Act to establish six positions—five regional staff and one at the central office—at the Virginia Department of Social Services responsible for implementing the statewide strategic plan for recruiting and retaining foster families and supporting local recruitment and retention efforts. (Chapter 3)

RECOMMENDATION 10

The General Assembly may wish to consider including language in the Appropriation Act to direct the Virginia Department of Social Services (VDSS) to (i) determine the amount of funding necessary to implement the statewide strategic plan for recruiting and retaining foster parents; and (ii) identify all possible sources of funding that could be used to support statewide recruitment and retention efforts, including Title IV-E funds, limits on these funding sources, and general fund match requirements. VDSS could be required to submit its findings to the House Appropriations and Senate Finance Committees by November 1, 2019. (Chapter 3)

RECOMMENDATION 11

The General Assembly may wish to consider including language in the Appropriation Act directing the Virginia Department of Social Services to (i) conduct an immediate review of the circumstances of every child in foster care currently in congregate care, to identify children who do not have a clinical need to be in congregate care; (ii) communicate its findings to each local department of social services; (iii) direct the local departments to make concerted efforts to identify appropriate family-based placements for these children; and (iv) direct the local departments to move identified children to an appropriate family-based placement, if feasible. (Chapter 3)

RECOMMENDATION 12

The General Assembly may wish to consider amending Title 63.2, Chapter 9 of the Code of Virginia to direct the Virginia Department of Social Services (VDSS) to review, at least annually, the circumstances of every child in foster care who is placed in a congregate care setting, and identify children for whom such a placement is not justified by their needs. When it is determined that a child's placement in a congregate care setting is not justified by their needs, and the local department of social services does not take reasonable steps to find an appropriate family-based placement, the local department should be required to pay all costs associated with the congregate care placement out of local funds until VDSS determines that the local department has made reasonable efforts to place the child in an appropriate family-based placement. (Chapter 3)

RECOMMENDATION 13

The Virginia Department of Social Services should (i) modify its guidance to require caseworker visits with birth parents at least once every two months as long as reunification remains the foster care goal, and require caseworkers to document these visits in the electronic case management system; (ii) monitor the frequency of these visits on an ongoing basis; and (iii) notify the relevant directors and boards of local departments of social services when required visits with birth parents have not occurred over an extended duration, such as five months. (Chapter 4)

RECOMMENDATION 14

The General Assembly may wish to consider amending § 63.2-900 of the Code of Virginia to require local departments of social services to hold structured meetings, facilitated by a trained, neutral moderator, with birth parents, relatives, and other relevant stakeholders, to make decisions that are in the best interest of the child in foster care, prior to all critical decision points during a child's stay in foster care. (Chapter 4)

RECOMMENDATION 15

The General Assembly may wish to consider amending § 63.2-1305 of the Code of Virginia to create a state-funded Kinship Guardianship Assistance program that waives the requirement for potential guardians to serve as a licensed foster parents for six consecutive months and limit eligibility for this program to children who are least likely to be placed in a permanent home or who have been in foster care for an extended period of time. (Chapter 4)

RECOMMENDATION 16

The Virginia Department of Social Services should (i) develop in guidance a list of acceptable reasons for not filing for termination of parental rights after 15 months in foster care and (ii) require local departments to document at least one of these reasons in the state's electronic case management system whenever a decision is made to delay filing for termination of parental rights. (Chapter 4)

RECOMMENDATION 17

The General Assembly may wish to consider amending § 16.1-282.1 of the Code of Virginia to require, for all permanency planning hearings after 15 months in foster care in which termination of parental rights (TPR) has not occurred, that the local departments of social services include the reason for not initiating TPR in the petition for the hearing. (Chapter 4)

RECOMMENDATION 18

The General Assembly may wish to consider including language in the Appropriation Act directing the Supreme Court of Virginia to evaluate the feasibility, costs, and effectiveness of the following options to expedite the appeals process for termination of parental rights (TPR) cases: (i) designate juvenile and domestic relations courts as courts of record for TPR hearings and send appeals directly to the court of appeals; (ii) originate TPR hearings in circuit courts; (iii) shorten the 90-day deadline for circuit courts to hold TPR hearings; (iv) establish a deadline for the court of appeals to hold TPR hearings; and (v) any other options that could expedite the appeals process for TPR cases. The executive secretary of the Supreme Court of Virginia should submit the results of this evaluation to the House and Senate Courts of Justice Committees; the House Health, Welfare and Institutions Committee; and the Senate Rehabilitation and Social Services Committee by November 1, 2020. (Chapter 4)

RECOMMENDATION 19

The Virginia Department of Social Services should develop a clear guidance document to educate birth parents about their option to voluntarily terminate parental rights and require local departments of social services to provide this document to all birth parents no later than at the first foster care review hearing. (Chapter 4)

RECOMMENDATION 20

The Virginia Department of Social Services (VDSS) should develop a list of children who have been in foster care for more than 36 months, to be updated quarterly. Each quarter, VDSS should require regional staff to review each case and authorize them to respond with direct technical assistance or referrals to relevant VDSS contractors, as necessary and appropriate, to minimize unnecessarily lengthy stays in foster care. (Chapter 4)

RECOMMENDATION 21

The Virginia Department of Social Services should prepare reports each quarter on (i) the percentage of children in each locality in foster care for over 12 months, 24 months, and 36 months, and (ii) the regional and state average lengths of stay in foster care. The reports should be sent at least quarterly to relevant local directors and boards of social services and juvenile and domestic relations courts. (Chapter 4)

RECOMMENDATION 22

The State Board of Social Services should promulgate regulations to (i) require that independent living needs assessments and transition plans be conducted within 30 days of a child turning 14 in foster care or entering foster care at age 14 or older; and (ii) require that the needs assessments and transition plans be updated annually. (Chapter 4)

RECOMMENDATION 23

The Virginia Department of Social Services should update its guidance on the Fostering Futures program to allow local departments of social services to disenroll youth for substantial violation of the written agreement. This guidance should include information on the types of requirements that the agreements may and may not include. (Chapter 4)

RECOMMENDATION 24

The General Assembly may wish to consider amending § 63.2-905 of the Code of Virginia to require the Virginia Department of Social Services to (i) establish a caseload standard for foster care caseworkers; (ii) notify relevant local boards of social services when foster care caseworkers carry caseloads that exceed this standard for an extended period of time; and (iii) periodically review and update the caseload standard, as appropriate, to account for changes in the time and work required to effectively manage each foster care case. (Chapter 5)

RECOMMENDATION 25

The Virginia Department of Social Services (VDSS) should develop plans of action for ensuring that local departments of social services that have foster care caseworkers carrying caseloads in excess of 15 children are able to reduce those caseloads to 15 or fewer without compromising the safety or well-being of children. VDSS should assist local departments, as necessary, in implementing these plans. These plans of action should be developed in collaboration with regional office staff and local department directors and sent to the relevant local boards of social services by June 30, 2019. (Chapter 5)

RECOMMENDATION 26

The General Assembly may wish to consider including language in the Appropriation Act directing the Virginia Department of Social Services (VDSS) to (i) identify local departments of social services in greatest need of assistance with recruiting and retaining foster care caseworkers; (ii) recommend solutions for the specific barriers to caseworker recruitment and retention; and (iii) identify additional funding needs, and federal funding that could be leveraged, to implement the recommendations. VDSS should report its findings and recommendations to the House Appropriations and Senate Finance Committees no later than November 1, 2019. (Chapter 5)

RECOMMENDATION 27

The General Assembly may wish to consider including language in the Appropriation Act directing the Virginia Department of Social Services (VDSS) to review the feasibility and costs of establishing a standard for supervisory spans of control within Virginia's foster care system. VDSS should report its findings to the House Appropriations and Senate Finance Committees no later than November 1, 2020. (Chapter 5)

RECOMMENDATION 28

The Virginia Department of Social Services should monitor foster care staffing problems on an ongoing basis and assist local departments in addressing these problems, as necessary. For the purposes of targeted interventions and support, the following should be monitored, at a minimum: (i) competencies and compensation of caseworkers and supervisors; (ii) vacancy and turnover rates among caseworkers and supervisors; (iii) foster care caseloads; (iv) supervisory spans of control; and (v) specific opportunities to use caseworkers' and supervisors' time more efficiently and effectively. (Chapter 5)

RECOMMENDATION 29

The General Assembly may wish to consider amending § 63.2-900 of the Code of Virginia to authorize and direct the Virginia Department of Social Services to (i) annually conduct structured reviews of a representative sample of foster care cases to ensure that local departments of social services are complying with state and federal laws and policies, and are implementing effective practices; (ii) communicate to the relevant local departments and boards of social services problems and areas for improvement that are identified through these reviews; (iii) work with local departments to develop strategies to resolve all identified problems; (iv) monitor the performance of these departments to ensure problems are satisfactorily resolved; and (v) report annually on the results of the reviews to the Virginia Board for Social Services. (Chapter 6)

RECOMMENDATION 30

The General Assembly may wish to consider including language in the Appropriation Act directing the Virginia Department of Social Services (VDSS) to develop a plan to phase in structured, comprehensive annual quality assurance reviews for a representative sample of foster care cases and report findings to the Virginia Board for Social Services. The plan should describe (i) the design of a comprehensive quality assurance review process; (ii) strategies for recruiting and training qualified reviewers; (iii) the role of VDSS central office staff in reviewing and acting on the findings of quality assurance reviews; and (iv) criteria for phasing in quality assurance reviews, prioritizing those departments that are, according to evidence, at the highest risk for providing inadequate services. The plan should be submitted to the House Appropriations and Senate Finance Committees by June 30, 2020. (Chapter 6)

RECOMMENDATION 31

The General Assembly may wish to consider including language in the Appropriation Act directing the Virginia Department of Social Services to (i) continue conducting agency case reviews at all local departments of social services as a more structured, comprehensive quality assurance review process is phased in; (ii) require central office staff to examine the results of agency case reviews and continue to communicate all identified problems to the relevant local departments; (iii) communicate such concerns to the relevant boards of social services; (iv) work with local departments to develop strategies to resolve all identified problems; and (v) monitor local departments' efforts to resolve all identified problems. (Chapter 6)

RECOMMENDATION 32

The General Assembly may wish to consider amending Chapter 2 of Title 63.2 of the Code of Virginia to create an independent office of child welfare ombudsman, which would report directly to the Secretary of Health and Human Resource and be responsible for (i) receiving and responding to complaints related to the safety and well-being of children in foster care; (ii) reporting annually to the governor, the General Assembly, and the Court Appointed Special Advocate program at the Department of Criminal Justice Services on the complaints received and actions taken; and (iii) making recommendations to improve services and outcomes for children in foster care and their families. (Chapter 6)

RECOMMENDATION 33

The General Assembly may wish to consider amending § 63.2-900 of the Code of Virginia to specify the conditions under which the Virginia Department of Social Services (VDSS) should intervene at local departments of social services to address shortcomings with the delivery of foster care services and to expressly authorize VDSS action to ensure that local departments comply with state foster care laws and regulations. (Chapter 6)

RECOMMENDATION 34

The General Assembly may wish to consider including language in the Appropriation Act requiring the Virginia Department of Social Services to develop a plan for staffing its regional offices in such a way that facilitates effective state supervision of the delivery of foster care services by local departments of social services. The plan should be submitted to the House Appropriations and Senate Finance Committees no later than November 1, 2020. (Chapter 6)
