

Summary: Improving Virginia's Foster Care System

WHAT WE FOUND

Requirements to ensure children's health and safety are followed in most foster care cases, but lack of adherence to requirements in some cases puts children at risk

In most cases, the basic steps required by federal and state laws to ensure the safety of children in foster care are being followed in Virginia, and most children are receiving required physical and mental health services. However, a lack of adherence to federal and state requirements for ensuring children's health and safety, even if they are infrequent, creates avoidable risks for children in the government's custody.

A review of foster care cases by the Virginia Department of Social Services (VDSS) found that basic safety requirements have not always been followed. In 98 sampled cases (four percent), the requirements to ensure the safety of placement settings were not followed. Additionally, despite the requirement that caseworkers visit children at least once a month—and the importance of these visits for monitoring children's safety and well-being—caseworkers in some local departments were found to not be conducting monthly visits, and some children in foster care are not being visited for multiple consecutive months. Evidence also shows that children do not always receive required health screenings, and the proportion of children in foster care in Virginia who did not receive required screenings in FY16 was higher than in some other states.

VDSS has recently taken steps to collect case-level information that—once it is prioritized by VDSS staff—will allow VDSS to identify practices that unnecessarily place children's health and safety at risk and work with local departments to resolve identified problems.

Expanded state-level policies and investments are needed to place more children in family-based foster care settings

Local departments of social services do not do enough to place children in foster care with relatives, and the state does not take sufficient steps to ensure non-relative foster families are available to care for children when relatives are unavailable. Although state requirements, federal law, and child welfare best practices prioritize placement with

WHY WE DID THIS STUDY

In 2017, the Joint Legislative Audit and Review Commission directed its staff to study the foster care and adoption services delivered by Virginia's local departments of social services and supervised by the Virginia Department of Social Services (VDSS). JLARC staff examined the extent to which local departments follow requirements to ensure the safety and well-being of children in foster care and effectively manage foster care cases; the appropriateness of foster care placements; efforts to place children in permanent homes; and the role of VDSS in supervising the delivery of foster care and adoption services.

ABOUT VIRGINIA'S FOSTER CARE SYSTEM

Virginia's foster care system is intended to provide temporary protection and care for children who cannot remain safely in their homes. About 5,300 Virginia children are in foster care, and total federal, state, and local spending on foster care and adoptions amounts to nearly \$500 million annually. Both the number of children in foster care and expenditures for administering the system have increased in recent years.

relatives, local departments in Virginia are not using relatives nearly as frequently as other states. In 2016, only six percent of children in foster care were placed with relatives, about one-fifth as often as the national average (32 percent). Virginia's low rate of placement with relatives can be explained, at least in part, by inconsistent efforts by caseworkers to identify relatives who may be willing and able to assume the role of foster parent.

A key resource for family-based placements, particularly when relatives are not an option, are non-relative foster families, but the statewide shortages of non-relative foster families in Virginia are long standing and well known. Despite the persistent nature of these shortages, Virginia still has no plan, dedicated funding, or staff to systematically recruit non-relative foster families, in contrast to other states.

Because of the shortage of both relative and non-relative foster families, many local departments have had to rely on costlier, more restrictive placements for children whose needs are not effectively met in such placements. Virginia's use of congregate care (group homes and residential treatment centers) is higher than other states' and has been increasing. A substantial proportion of children in congregate care settings in Virginia do not have a clinical need to be there, according to two separate indicators of clinical need and observations from foster care caseworkers across many local departments of social services. In some instances, short stays in congregate care are necessary for children in foster care, but research shows that unnecessary time in congregate care can have negative effects on children's healthy development. In some other states, the rates of congregate care placements have been a factor in federal class-action litigation against state child welfare systems.

Additional casework is needed to improve the likelihood that children in foster care will find a permanent home

Federal and state law require local departments to minimize the time children spend in foster care by working diligently to reunify children with their birth parents as soon as it is safe and appropriate to do so, or to find relatives or others willing to permanently care for children when timely reunification is not possible. Compared to children in other states, a higher proportion of children "age out" of Virginia's foster care system before finding a permanent family. For example, of children 12 and older who entered foster care between 2012 and 2016, 54 percent aged out before finding a permanent home—approximately double the 50-state average (25 percent). Virginia has been among the worst three states annually for children aging out of foster care since at least 2007.

Compared to other states, Virginia takes fewer children into foster care, and it is commonly assumed that the children who enter foster care in Virginia have more severe challenges and are more difficult to place. This assumption is sometimes used to explain lengthy stays in foster care in Virginia, but analysis shows that a more likely explanation is the combination of inadequate casework by local departments and certain barriers outside caseworkers' control, such as the court system and service availability.

Reunification with birth families appears to be the type of permanency with the greatest opportunity for improvement in Virginia. VDSS data indicates that local departments are not involving birth parents and other key individuals in critical decision points in the foster care process, and children in Virginia are significantly less likely to be reunified with their birth parents than children in other states.

Some children are waiting an unnecessarily long time for adoptions to occur, due in part to the practices of local departments with respect to the “termination of parental rights” (TPR) process. TPR permanently eliminates all legal rights and responsibilities of birth parents and is legally required to occur before a child may be adopted. However, in some cases foster care caseworkers do not request TPR at the milestones required by federal and state law, delaying a child’s ability to become eligible for adoption. The often lengthy TPR appeals process in Virginia can also prolong the amount of time taken for children to be placed in a permanent home, and steps need to be taken to ensure birth parents are aware of a voluntary TPR option that could potentially avoid the appeals process and make children eligible for adoption sooner.

Fifteen percent of caseworkers carry high foster care caseloads, and high caseloads affect nearly one-third of children

Fifteen percent of foster care caseworkers in Virginia carry caseloads of more than 15 children at a time—higher than the widely accepted caseload standard of 12 to 15 children per caseworker. Caseworkers with these high caseloads are in 32 local departments distributed across all five regions of the state. The number of foster care caseworkers with caseloads of more than 15 has been increasing, and a relatively large number of children in foster care are affected. Foster care caseworkers with high caseloads were collectively responsible for managing the cases of 1,657 children (31 percent of all children in foster care). Higher foster care caseloads are associated with lower rates of routine medical exams, fewer in-home visits by caseworkers, and fewer contacts between children and their birth families each month, according to JLARC analysis of VDSS data.

VDSS has not effectively supervised the foster care system and does not have an effective means to identify and resolve poor performance

Many stakeholders—social services staff, foster parents, judges, and others—expressed concerns about the lack of accountability in Virginia’s foster care system and the impact this has on children and families. VDSS has historically narrowly interpreted its supervisory responsibilities, which are set in statute, and past VDSS leaders have equivocated about the state’s ability to assertively supervise foster care services and hold local departments of social services accountable. The current VDSS commissioner has signaled that VDSS may be more proactive in its supervisory role under his leadership, but state law should be clarified to ensure that VDSS has unequivocal statutory direction regarding its responsibilities for holding local departments accountable for providing foster care services in a manner consistent with federal and state

laws. For example, although the commissioner of VDSS has the statutory authority and responsibility to intervene when local departments of social services fail to provide services to those who need their assistance, current state law is not clear about the *circumstances* under which VDSS should intervene to resolve cases in which children are not receiving needed services.

To improve its effectiveness as supervisor of the system, VDSS also needs to more closely monitor local departments' child welfare practices. VDSS initiated a case review process in 2017 to identify problems with the administration of child welfare services, but the results of the case reviews—which have been conducted for nearly two years—have not been systematically reviewed by central office staff, and VDSS has no process to ensure that identified problems are resolved. The information from case reviews could be leveraged to make improvements, and the current case review process could be replaced with a more comprehensive and structured quality assurance review process that prioritizes those departments that appear to be at the greatest risk of providing inadequate services.

WHAT WE RECOMMEND

Legislative action

- Direct VDSS to examine the results of regional consultants' 2017 and 2018 case file reviews and certify that all safety-related concerns identified in those reviews have been resolved.
- Direct VDSS to develop and maintain a strategic plan for recruiting foster families and to maintain a statewide inventory of foster families.
- Direct VDSS to identify all children who do not have a clinical need to be in a congregate care setting and take steps to move them to a more appropriate placement.
- Establish a standard for the number of foster care cases managed by a single caseworker.
- Specify VDSS's supervisory responsibilities for the state's foster care system and the actions it is authorized to take to ensure local departments comply with state foster care laws and regulations.

Executive action

- Require local department staff to routinely search for the relatives of children in foster care and issue clear guidance to local departments on the existing policies that can facilitate the approval of relatives to serve as foster parents.
- Identify children who have been in foster care for longer than 36 months and provide technical assistance and resources to local departments to minimize prolonged stays in foster care for these children.
- Develop clear guidance that should be distributed to all birth parents on their ability to voluntarily terminate parental rights.

The complete list of recommendations is available on page vii.