

JLARC Report – Recommendations and Status

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)

Not in Appropriation Act. The foster care omnibus bill increases staffing for regional oversight and an enactment clause in the bill directs VDSS to develop and implement a more reliable, structured, and comprehensive case review and quality improvement process.

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 caseworkers, 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)

As part of the Family First implementation efforts, the Service Array workgroup at VDSS reviewed the use of the CANS assessment in meeting the Family First requirements, and determined that the CANS assessment would be used in all cases that met the Family First requirements.

The Office of Children's Services is a key member of this workgroup and is actively involved in the recommendations regarding the use of the CANS instrument. The Division of Family Services plans to continue to work with the Service Array workgroup to provide recommendations regarding the use of the CANS assessment both internally and to the Office of Children's Services.

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)

Included in the Appropriation Act and Foster care omnibus bill.

The position description has been drafted, it was reviewed by partners at the Department of Medical Assistance Services as VDSS and DMAS will be working closely in regards to this recommendation and the work of the Managed Care Organizations who oversee foster care children. Once approved, the position will be posted, with the intent to hire and fill by 7/1/19.

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)

Foster care omnibus bill achieves this recommendation.

Practice Guidance will be revised to include relative searches and documentation of efforts in OASIS/COMPASS at the following points:

- Prior to the Child and Family Team Meeting and Family Partnership Meetings;
- Prior to removal;
- Quarterly (which addresses not placed with relatives and no clear placement options, placement changes, if such a search has not been conducted within the 90 days prior);
- Annually

Additionally, reminders for workers and supervisors will be added to the COMPASS Mobility App to correspond with each aforementioned search point.

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)

HB 2622 (Austin) passed during the 2019 General Assembly session provides that, in any proceeding in which a child is removed from the home, the court may order the parents or guardians of such child to provide the names and contact information for all persons with a legitimate interest to the local department of social services.

While this is permissive, it leaves the option available to the judge whether or not to require the family to provide relative contact information.

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)

VDSS has created a diligent recruitment workgroup and is receiving technical assistance from the Center for States. The workgroup will make recommendations to strengthen current practice guidance and provide technical assistance to LDSS on full disclosure and option for relatives.

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 semiannually 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)

Foster care omnibus bill achieves this recommendation. Enacted legislation requires list to be updated quarterly.

VDSS is working with LDSS on updating their lists regularly, and is also addressing the capacity to track the information via the Comprehensive Child Welfare Information System (CCWIS) system.

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)

Foster care omnibus bill achieves this recommendation.

VDSS has created a diligent recruitment workgroup and is receiving technical assistance from the Center for States. The workgroup along with guidance from the Center for States will develop and maintain a statewide Diligent Recruitment Strategic Plan.

Separate from the FC Omnibus bill, \$100,000 was included in the 2019 budget to implement the Virginia Fosters program. This unique partnership with Virginia Kids Belong will take the lead on developing the diligent recruitment plan for the Commonwealth.

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)

Foster care omnibus bill adds requirement that regional offices have no less than four staff members. Additionally, an enactment clause in the bill directs VDSS to develop and implement a data-driven strategic plan, to be updated biennially, to improve the recruitment and retention of foster parents in the Commonwealth.

The position descriptions have been drafted and are currently in the organizational development process. Once these positions have been developed as appropriate, the positions will be posted, with the intent to hire and fill by 7/1/19.

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)

The foster care omnibus bill directs VDSS to develop and implement a data-driven strategic plan, to be updated biennially, to improve the recruitment and retention of foster parents in the Commonwealth.

VDSS has created a diligent recruitment workgroup and is receiving technical assistance from the Center for States. The workgroup along with guidance from the Center for States will develop and maintain a statewide Diligent Recruitment Strategic Plan.

Separate from the FC Omnibus bill, \$100,000 was included in the 2019 budget to implement the Virginia Fosters program. This unique partnership with Virginia Kids Belong will take the lead on developing the diligent recruitment plan for the Commonwealth.

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)

The foster care omnibus bill directs VDSS to develop and implement an ongoing review process to monitor the placement of children by local boards of social services in children's residential facilities and ensure that such placements are warranted by medical necessity for congregate care.

VDSS has been in communication with the Department of Medical Assistance Services as this will be a key partnership in determining medical necessity for all children in congregate care facilities.

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)

The foster care omnibus bill directs VDSS to develop and implement an ongoing review process to monitor the placement of children by local boards of social services in children's residential facilities. Additionally, the bill requires regional oversight over placements to congregate care.

VDSS is presently developing a process for an annual review of children in congregate care and the procedures for addressing any issues identified with children who remain in congregate care.

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)

Foster care omnibus bill achieves this recommendation. The department will monitor compliance via a dashboard. The July 1, 2019 guidance will be updated to reflect these changes.

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 decisions points during a child’s stay in foster care. (Chapter 4)

Legislation not proposed or enacted.

VDSS has developed a family engagement workgroup and developed strategies to better engage parents, relatives and stakeholders, and to increase the use of Family Partnership Meetings prior to all critical decision points.

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)

Legislation not proposed or enacted.

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)

VDSS in Collaboration with the Court Improvement Program has developed a strategy to enhance court processes to reinforce the requirement that termination of parental rights petitions are filed in accordance with required provisions.

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)

Legislation not proposed or enacted.

VDSS in Collaboration with the Court Improvement Program has developed a strategy to enhance court processes to reinforce the requirement that termination of parental rights petitions are filed in accordance with required provisions.

- VDSS will assess the foster care service plan and foster care service plan review templates to identify where the local agency documents a compelling reason not to file a petition for termination of parental rights (TPR); make changes, as necessary and appropriate.
- The Court Improvement Program will develop a proposed revision to the *Petition for Permanency Planning Hearing* (district court form DC-556), to include an indicator for the local agency to identify that a compelling reason for not filing a petition for termination of parental rights is documented in the foster care service plan or foster care service plan review.

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)

Member request included in the Senate budget. Not in Appropriation Act. Study or evaluation is not included in Supreme Court's work plan.

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)

In collaboration with VDSS, the Court Improvement Program will revise the Handbook for Parents and Guardians in Child Dependency Cases to add a section on relative identification and the importance of parents cooperating in efforts to identify relatives who may be placement options for their child. This Handbook is designed to help parents understand what will happen throughout the course of a child dependency court case.

LDSS will also enhance guidance to notify family members of the opportunity to enter a voluntary entrustment agreement.

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)

Foster care omnibus bill achieves this recommendation. The number of children in foster care for more than 24 months will be entered into the dashboard. Additionally, VDSS shall develop and implement a process to (i) identify and review foster care cases in which the child has been in foster care for 24 months or longer; (ii) provide assistance to local boards and departments of social services to find a permanent home for such children; and (iii) conduct follow-up reviews of such cases annually to ensure that the local board and department of social services continue to make diligent efforts to secure a permanent home for such children.

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)

Foster care omnibus bill achieves this recommendation

A draft permanency data analyst position description is in review. Once hired, this position will be responsible for producing these reports and incorporating findings into the continuous quality improvement (CQI) system in addition to communicating to the appropriate local departments of social services.

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)

This will be included in VDSS' regulatory actions beginning in the Fall 2019 time frame.

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)

VDSS is currently reviewing this recommendation and will make a recommendation for how to be proceed.

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)

Foster care omnibus bill achieves this recommendation. VDSS shall, pursuant to Board regulations, establish a caseload standard that limits the amount of foster care cases that may be assigned to each foster care caseworker. Such caseload standard shall be reviewed and updated, as appropriate, annually on the basis of the time and work necessary to effectively manage each foster care case.

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)

Foster care omnibus bill achieves part of this recommendation. The dashboard mandated in the bill requests information about the number of foster care caseworkers with caseloads exceeding the standard established pursuant to § 63.2-913.1; and the number of children in foster care to whom a caseworker with a caseload exceeding the standard set forth in § 63.2-913.1 has been assigned. Additionally, it is the job of the director of foster care health and safety to ensure that local boards remedy any failures, including those related to caseworker visits.

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)

Not in Appropriation Act.

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)

Not enacted. However, foster care omnibus bill mandates additional regional oversight. Also, the legislation gives the Commissioner additional authority, including the ability to create and enforce a corrective action plan.

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)

Foster care omnibus bill achieves much of this recommendation via the dashboard as well as with the assistance of newly implemented regional oversight.

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)

Foster care omnibus bill achieves this recommendation. The omnibus legislation increases regional oversight by stating that at least one staff member shall be tasked with conducting foster care and adoption case reviews to ensure that local boards within the region are providing foster care and adoption services in a manner that complies with state and federal laws and regulations and protects the health, safety, and well-being of children under the supervision and control of such local boards.

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)

Foster care omnibus bill achieves this recommendation. VDSS shall develop and implement a more reliable, structured, and comprehensive case review and quality improvement process to monitor and improve foster care services provided by local boards and departments of social services in the Commonwealth.

VDSS is presently conducting annual quality assurance reviews as required by the federal Child and Family Services Review and will continue and enhance this process as the agency moves forward.

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)

Foster care omnibus bill achieves this recommendation. VDSS shall develop and implement a more reliable, structured, and comprehensive case review and quality improvement process to monitor and improve foster care services provided by local boards and departments of social services in the Commonwealth.

VDSS is presently conducting annual quality assurance reviews as required by the federal Child and Family Services Review and will continue and enhance this process as the agency moves forward. VDSS is building the continuous quality improvement (CQI) process on the backend and will be moving towards to fully implementing the required changes.

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)

Legislation not enacted – HB 2381 (Hurst) failed to report during the 2019 Session.

VDSS is moving forward with creating a Foster Care Ombudsman who will actively work to achieve many of the recommendations for the child welfare ombudsman, only limited to the foster care program.

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)

Foster care omnibus bill achieves this recommendation. The VDSS Commissioner is given the authority to place or remove any child, under the control of a local board, from a home or facility that is not complying with child health, safety, or well-being requirements.

Additionally, the Commissioner shall have the authority to create and enforce a corrective action plan.

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)

Foster care omnibus bill achieves this recommendation. The legislation spells out the utilization of regional staff to provide effective oversight of and assistance with foster care and adoption services provided by local boards