

**REPORT OF THE
DEPARTMENT OF SOCIAL SERVICES ON**

FOSTER PARENT BILL OF RIGHTS

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



SENATE DOCUMENT NO. 44

**COMMONWEALTH OF VIRGINIA
RICHMOND
1995**



COMMONWEALTH of VIRGINIA

Office of the Governor

George Allen
Governor

Kay Coles James
Secretary of Health and Human Resources

February 8, 1995

TO: The Honorable George Allen

and

The General Assembly of Virginia

The report contained herein is pursuant to Senate Joint Resolution 107, agreed to by the 1994 General Assembly.

This report constitutes the response of the Department of Social Services to study issues related to support, training, grievance and appeal procedures, liability coverage and statutory protections for foster care providers.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Kay Coles James", written over a horizontal line.

Kay Coles James
Secretary of Health and Human Resources

EXECUTIVE SUMMARY

Senate Joint Resolution 107 requested that the Department of Social Services "study the need for a Bill of Rights for foster care providers."

The study determined that foster parents in Virginia do have some statutory protections, training, assistance, liability coverage, appeal procedures, and other supports. However, inclusion of language for a bill of rights and corresponding responsibilities in the foster parent handbook would give recognition to the important role foster parents play in the lives of foster children. This can and should be achieved by administrative rather than legislative means. The department should also examine appeal procedures for foster parents. Reasons for these conclusions are:

- Most foster parents are active members of the foster care team, which generally includes the foster care worker, foster parent, birth family, and significant others, but 22% of public and 10% of private providers report not being treated as team members.
- Everyone involved with planning for the foster child needs to know their roles and responsibilities, and the bill would help clarify the role of foster parents.
- Although most foster parents seem generally satisfied, there is inconsistency across the state regarding knowledge of and access to services and involvement in information sharing and service planning.
- Although some excellent training is offered in some areas of the state, access to needed training is inconsistent.
- The state's appeal procedures for foster parents, and often local alternatives for conflict resolution, are confusing.
- Knowledge of the state's provisions for property damage and liability coverage is lacking.
- Foster parents can better meet the needs of children if well-informed and encouraged to participate in planning. Stating rights and responsibilities for all foster parents should increase quality of care for children.

Key elements of a statement of rights and responsibilities for foster parents should include:

- treatment with respect, dignity, and as a team member;
- a clear understanding of the roles of the agency, birth family, and foster family;

- training opportunities;
- all relevant background information on a child to be placed in their home;
- participation in service planning, decision making, and information sharing;
- knowledge about insurance coverage or other protections;
- access to supportive services for themselves and the children in their home;
and
- procedures for conflict resolution with other team members.

Caring for children who cannot be with their birth families is an enormous responsibility. Children coming into care have more severe problems or conditions than in years past, particularly because more is being done to maintain children in their own homes and prevent foster care. Foster parents fulfill a critical role in serving Virginia's troubled children and their families. Clearly defined rights and responsibilities would support them in this role.

ACKNOWLEDGEMENTS

Senate Joint Resolution 107 requested that the Department of Social Services conduct a study of the need for a "Foster Care Provider Bill of Rights." A task force of local and state staff and public and private foster care providers was instrumental in developing and testing surveys, clarifying data, and formulating conclusions.

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I. INTRODUCTION

PURPOSE

The 1994 General Assembly, through Senate Joint Resolution 107, requested that the Department of Social Services "study the need for a Bill of Rights for foster care providers." While assessing this need, the Department was requested to address:

- support for foster care providers in such areas as training, information provided about foster care children placed in the provider's care, and other supportive services;
- assistance provided by local departments of social services and other agencies;
- grievance and appeal procedures;
- liability issues and liability coverage; and
- the adequacy of existing statutory protections.

For this study, the term **foster care providers** has been interpreted as **foster parents**, whether under the auspices of a public or private child placing agency.

BACKGROUND

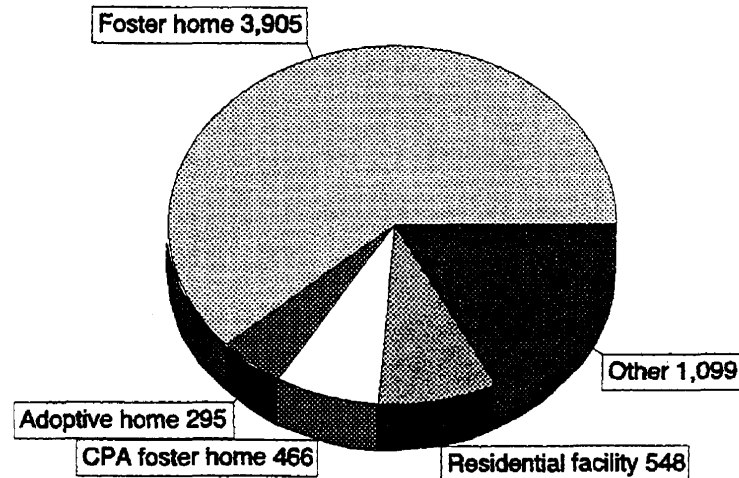
- Foster care is substitute care on a 24-hour basis for children who need an out-of-home placement. It is intended to be temporary and can be provided in a variety of settings.
- Every child placed by local social service agencies must have a permanency planning goal. The primary goal for children in foster care is to return them to their families. Foster parents have the responsibility of helping children and their parents achieve this goal.
- Foster parents are crucial to the success of the foster care program because over half of the children in care reside in foster homes.
- When a child comes into foster care, the child, his/her family, agency staff, and those responsible for the day-to-day care of the child, primarily foster parents, work as a team. It is the team's responsibility to plan what is best for the child and see that the plan is carried out.

Virginia's Foster Children Today

- Department statistics indicate that 6,313 children were in foster care on June 30, 1994, with 3,905 residing in foster family homes (see figure 1).

Placements of Foster Care Children

as of June 30, 1994



Source: VACIS, Virginia Department of Social Services

Figure 1

- Age: The average age of a child in foster care today is 11 years old, but a large number (43%) are between the ages of 13 and 21. A higher proportion of younger children reside in foster homes than do older children. (See Figure 2.)
- Length of stay: The average length of stay is three years, generally with a foster family in the child's home community.
- Goal: The most common goal for foster children is Return Home (52%).
- Reasons for care: Typically, the child who entered foster care in 1994 did so because of abuse or neglect.
- Needs: Over the last ten years, the needs of children in foster care have become more complex and challenging. Youngsters have been traumatized by poverty and homelessness, emotional maltreatment, physical and sexual abuse, alcohol and other drug exposure, and HIV (AIDS) infection (A Blueprint for Fostering Infants, Children, and Youths in the 1990's, CWLA, 1991). Foster children and birth families now require more specialized and intensive services than children in foster care ten years ago.

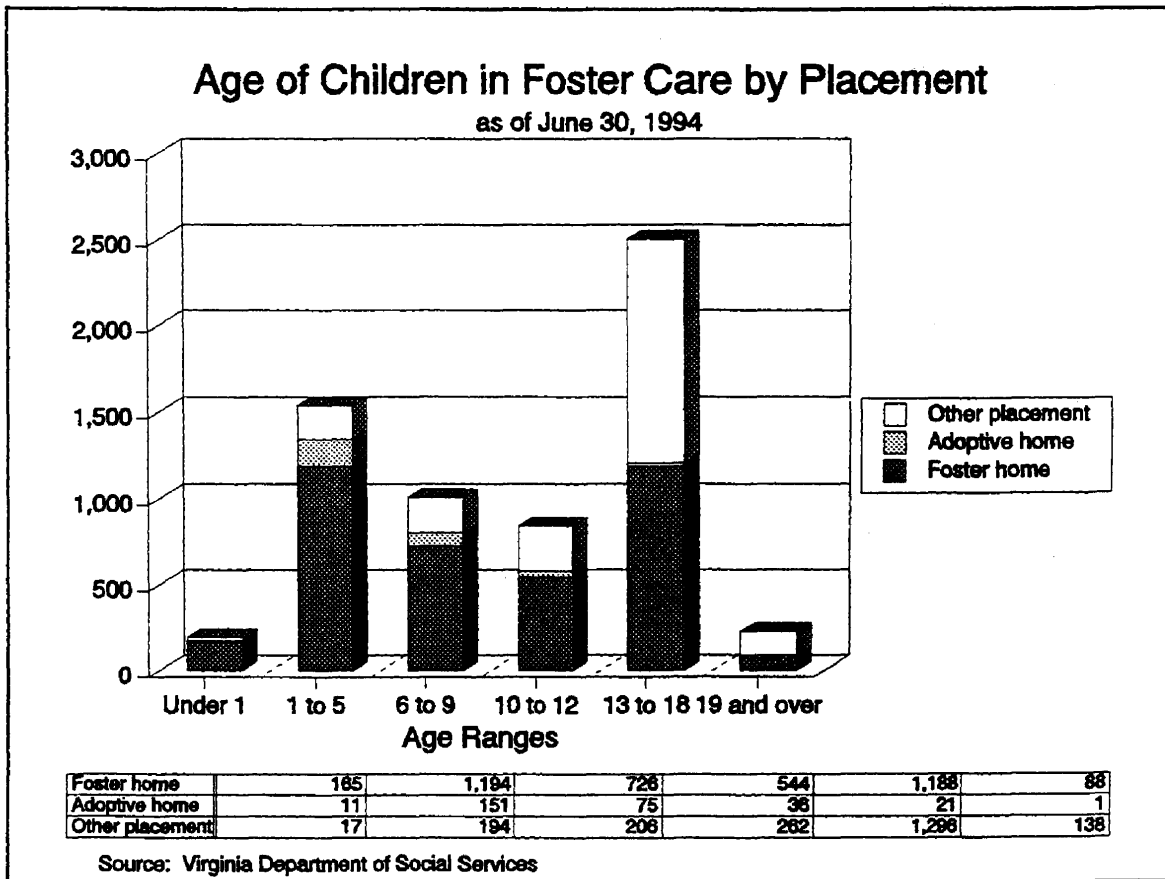


Figure 2

- Growth: From 1988 to 1993 there has been a 7% increase in the number of children entering foster care in Virginia.
- Appendix B gives more detailed information about the children.

Foster Parents Today

- Virginia has approximately 4,300 families approved by local social service agencies to provide foster family care.
- The average foster parents are married, Caucasian, and between 30 and 50 years old.
- While the number of approved homes may appear to be sufficient, foster care supervisors throughout the state consistently cite a lack of foster homes to meet the needs of specific children.
- Foster families are needed for children who have experienced sexual abuse, medical problems, physical and emotional disabilities, etc. Not all families can deal with these traumas.

- Foster parents approved by private child placing agencies currently provide homes for at least 466 of Virginia's foster children; detailed demographics were not available at the time of this report.
- Foster families perform essential tasks:
 - protect and nurture children in a safe, predictable environment;
 - ameliorate developmental delays and meet developmental needs for children;
 - promote positive self-esteem, family relationships, and cultural and ethnic identity;
 - plan and achieve permanence; and
 - prepare children and their parents for safe and appropriate relationships and responsibilities.

METHODOLOGY

A task force guided the work of the study. This group was composed of local social service staff, foster parents from public and private agencies, and department staff.

Objectives and methodologies:

- To assess foster parent views on the importance of and availability of training, information, grievance procedures, liability coverage, and support services: surveyed a random sample of foster parents and included representatives on the task force.
- To assess Virginia's current laws and policies related to these issues: reviewed laws, policies, prior studies and updated reports.
- To assess experiences of other states with foster parents' bill of rights: surveyed other states and reviewed copies of existing bills of rights.
- To determine appropriateness of a foster parent bill of rights in Virginia: task force reviewed and analyzed the results of all information collected.

II. SUPPORTS and ASSISTANCE FOR FOSTER PARENTS

In order to provide a successful placement for a foster child, foster parents need to be supported by training, mutual sharing of information, and opportunities for timely input regarding planning for the child in their home. Other services and supports include: counseling, insurance, financial reimbursement, respite, day care, and transportation.

TRAINING

Every child is traumatized by removal from his own home and brings challenges to the placement which may be very different from children with which the foster family is familiar.

Training for foster parents has a number of positive benefits:

- reduction in the number of placement disruptions,
- reduction in foster parent turnover,
- better preparation for the job of foster parenting,
- more positive relationships between foster parents and both staff and birth parents, and
- an ability to handle more problematic behaviors.
- ensure that foster parents have the knowledge, skills, and abilities required to provide appropriate care.
- enable foster parents to fulfill their responsibilities not only to the child, but to the agency and the birth family.

Training is provided in a variety of ways:

- Virginia as a state does not mandate pre-service or in-service training for foster parents, but it does offer some optional training through the FACTS (Foster/Adoptive Care Training System) program, which uses a consultative approach to help local agencies develop foster parent training.
- Local public or private agencies are responsible for any pre-service training of foster parents. Less than half of the 124 local agencies report offering training, but some of the larger agencies offer it regularly. Most private foster parents are required to attend training offered by the private agency.
- Foster parents also obtain training through their local or state foster parent associations, which may range from local presentations on a specific topic to a statewide conference offering a variety of workshops on many topics.

- Other training resources include courses at community colleges, hospitals, churches, or other local organizations.
- Most foster parents surveyed have received some training and are generally satisfied with it. 82% of public foster parents surveyed said they had attended some training; all private providers had been offered and had attended training.
- There are barriers to training and inconsistent access across the state. Logistics of providing training to foster parents can be overwhelming in some areas of the state. Need for child care and accommodating foster parent work schedules are major obstacles, as are resource limitations. Private and public agencies struggle with these barriers.

INFORMATION SHARING

Foster parents need information about the child placed with them in order to adequately meet the unique needs of each child. This sharing of information must be balanced with the rights of the birth family to confidentiality. Foster parents are instructed to keep all information protected.

- A willingness to share among all team members is fundamental to the child's welfare.
- When a child is being considered for placement, foster parents need to know sufficient information to determine if they can meet the needs of the child.
- After placement, the foster parents may come to know more about the child than anyone else on the team, and it becomes their responsibility to share significant information.
- The "right to receive all known background information on a child prior to placement in my/our home" was considered **very important** to almost all foster parents.

One foster parent wrote:

Our experience as foster parents has been a good one. I do feel that all information that Social Services knows about a child needs to be turned over to a foster parent. Information that is held back could endanger other children in the home. We are better prepared and more able to help a child cope if we know what to expect from a child and what the child has been through.

- Even though having adequate and timely information can greatly impact the success of the placement, when asked what information was provided on the most recent foster child placed with them, foster parents from public and private agencies differed widely on some items:

- 42% of public and 23% of private did not get information on medical needs and medication.
- 49% public and 26% of private were not told what behaviors to expect.
- Although foster parents are required to receive a copy of the child's Service Plan, 27% of public foster parents said they had not received a copy, and 17% of private had not.
- Public and private caseloads can differ. Foster families working with public agencies may be called upon to take children in emergency situations where little is known about the child or family. In private agency placement, the public agency must apply for placement and provide background information on the child before acceptance.

CONTACTS

Contacts between all the team members should be based on the needs of the child and be in accord with the service plan.

- Contact between the child and birth family is essential and always addressed in the service plan.
- Contacts between the agency and child are based on need, but some are prescribed by policy.
- Contacts with or access to the agency can be a support to the foster parents, and these are addressed in this report.

Surveys revealed:

- Frequency of phone contact: Most foster parents have weekly to monthly phone contact with an agency worker, with more weekly contact for the private providers (20% vs 39%).
- Frequency of visits: Agency workers visit generally monthly (24%) to every three months (21%) in public, and every other week (44%) to monthly (25%) for private providers. 76% of public and 97% of private foster parents feel that the number of visits are adequate to meet their needs.
- 24-hour access: Most public foster parents and all private thought the "right" to know how to contact the agency 24 hours a day was important. 83% of the public foster parents find the agency accessible; 94% of the private foster parents find the private agency accessible.

LIABILITY AND PROPERTY DAMAGE INSURANCE

Due to the nature of the situations in which foster parents become involved, they may encounter personal liability lawsuits and/or property damage related to the child in their home.

- Currently the department is self-insured. Foster parents must submit claims after their home insurance and other alternatives are fully utilized. The eligibility for this coverage is based on the fact that the foster child is in the custody of or placed by a local department of social services.
- 58% of public and 38% of private foster parents surveyed stated that they did not know about the state's liability and property damage insurance.
- In the first eight months of 1994, 32 claims have been filed, and the state has paid out \$32,416.
- There appears to be a lack of knowledge among Virginia's foster parents regarding coverage for the children placed in their homes.

OTHER SUPPORTS

Supportive services enable foster families to meet the needs of foster children in family-based care. Some services are delivered directly to the child, such as counseling. Others, such as respite (a temporary break for the foster family from the heavy demands of providing care), are to meet the needs of the foster family and enable them to do the best possible job of substitute parenting.

- Financial costs: All children in foster care are eligible to receive assistance with room and board and medical care. The maintenance payments for foster family care are based on the age and special needs of the child. Maintenance rates are set by the General Assembly and intended to cover the basic costs of maintaining a child. These rates are below the amount USDA has determined as required to meet the needs of a child today.
- Currently local agencies **may** offer such supports as respite, day care, counseling, etc., according to perceived need and available funding. These other kinds and amounts of supports to foster parents vary across the state.
- Respite care: This enables foster parents to receive a break. The department uses a statewide pool of funds to offer respite. In FY 94 a budget of \$280,000 for respite was utilized by 28 public agencies. Private agencies use other funding. 33% of public foster parents surveyed said they did not know about respite care; 17% of private did not know about it.
- Medical transportation: Reimbursement for transportation is available through Medicaid. 20% of the public foster parents did not know how to get help with

medical transportation; 17% of private providers did not know.

- Child day care: This enables foster parents to work. Most foster parents report no need for day care. Of the 37% of public who do need it, approximately 1/3 have been unable to get it. Slightly less than half of the private providers who need it have not gotten day care.

GRIEVANCE AND APPEAL PROCEDURES

Grounds for foster parents to appeal to the department are very limited. Foster parents cannot appeal placement decisions or matters before the court.

- Current department policy regarding appeal or grievance procedure for foster parents is unclear.
- The state has received very few appeals from foster parents over the last decade.
- When asked "Have you ever filed a grievance or appeal, or ever wanted to do so, related to a decision or action of the agency. . . which affected you or a child in your care?"
 - 13.2% of public replied "yes."
 - 9.7% of private providers answered "yes."
- Over 80% of public and private foster parents thought the right to a grievance or appeal process is **very important**.
- In many localities no clear procedures exist for voicing complaints and seeking resolution on decisions made by agencies on a variety of issues.
- Decision-making in foster care can be difficult and emotional. There are often many team members, all of whom may see different outcomes as "in the best interest of the child." The foster parent viewpoint must be at least heard and understood, even though the final decision may rest with the agency or court.
- Clear and uniform guidelines resolving conflicts at the earliest opportunity or lowest level would benefit all team members.
- The department should review and revise its policies related to appeal and grievance procedures for foster parents when issues cannot be resolved at the local level.

ADEQUACY OF STATUTORY PROTECTIONS

The Code of Virginia addresses foster parents as follows:

- 16.1-282c: Notice must be given to foster parents regarding hearings on children in foster care.
- 16.1-283a: Gives legal standing to foster parents in termination of parental rights hearings if the child has been in the home 12 months or more.
- 63.1-221: Allows foster parents to file a petition for a home study if termination of parental rights has occurred and the child has been in their home longer than 18 months.
- 63.1-56.3: Establishes liability insurance for foster parents.

Social Services policy contained in Volume VII, Section III, Chapter B, takes some of these protections a step further. The policy instructs local agencies to involve foster parents in planning, describes payment rates, and provides further guidelines for working with foster parents to provide services to children and families.

- Virginia's foster care policy states:
 - Foster parents are members of a team working to help a child achieve a stable and permanent living situation.
 - Foster care assessment/reassessments must be completed with the participation of "care providers."
 - Foster parents must be involved in service planning.
 - Foster parents must be invited to Administrative Panel Reviews, where the existing service plan is reviewed and new plans agreed upon.
- Most foster parents in Virginia agree that the protections in law and policy are adequate to meet the needs of foster parents, if the protections are known and implemented.
 - 78% of public and 90% of private foster parents either somewhat or strongly agree they have been treated as a member of the "foster care" team.
 - 71% of public and 93.5% of private foster parents felt they were involved in decisions about the foster child.
 - 84% of public and 90% of private report having been involved in service planning for the child.

III. BILL OF RIGHTS

A bill of rights can be a vehicle for bringing attention and clarity to issues of importance to foster parents and the whole foster care team. It may also help to raise the status of foster parents as one of the three major members of the foster care team, the other two being the child's parents and the placement agency.

OTHER STATES' EXPERIENCES

Of the 23 states responding to the survey related to a bill of rights:

- Three states - Texas, Tennessee, and Montana - have a formal foster parent bill of rights. All three were developed in conjunction with their foster parent associations. These states see it as an information resource, providing a starting point for training and conflict resolution.
- Two additional states - Illinois and Colorado - have recently passed legislation to examine foster parent rights and responsibilities and to propose appropriate legislation.
- Three states - Nebraska, North Carolina, and Florida - have a section in their policy, handbooks, or standards that address the rights and responsibilities of foster parents.
- Utah, as part of their Child Welfare Reform Act, effective July 1994, has implemented a conflict resolution procedure.
- Fifteen of the 23 states have an appeal or grievance procedure for foster parents, ranging from a fair hearing process to conflict resolution through a university. This in lieu of or addition to a bill of rights.
- Clarifying the roles and responsibilities of foster parents is an issue for several other states.

VIEWS OF VIRGINIA'S FOSTER PARENTS

Foster parents who served on the task force for this study were unanimous in recommending a bill of rights. Survey results showed most foster parents thought an expression of certain rights were important.

The following were considered very important by 90% or more of both public and private providers:

- Be treated with respect, dignity, and consideration as a team member
- Get a clear understanding of my/our role, the agency's role, and role of child's family

- Know how to contact the agency and get help 24 hours a day, 7 days a week
- Have a clear understanding of agency plans when placing a child in my/our home
- Get advance notice for a change in placement or service plan for a child in my/our home

CONCLUSIONS

Foster care is a public trust that requires that practitioners be dedicated to service for the welfare of children, that they utilize a recognized body of knowledge about human beings in their interaction, and that they be committed to gaining knowledge of community resources which promote the well-being of all without discrimination.

Each foster parent has an obligation to maintain and improve the practice of fostering, constantly to examine, use and increase knowledge upon which fostering is based, and to perform the service of fostering with integrity and competence.

(Virginia Commission for Children and Youth, 1979)

- Based on analyses of the surveys of foster parents and experience of other states, a need exists for a foster parent bill of rights and responsibilities in Virginia. To enable foster parents to fulfill the "public trust," this report proposes that:

The "Virginia Foster Parent Handbook" should be updated and include foster parent rights and responsibilities; it should be distributed to all current and new foster parents.

- The department, with task force involvement, has developed a draft of Foster Parent Rights and Responsibilities. See Appendix C of this report.

SENATE JOINT RESOLUTION NO. 107

Requesting the Department of Social Services to study the need for a Foster Care Provider Bill of Rights.

Agreed to by the Senate, February 8, 1994

Agreed to by the House of Delegates, February 25, 1994

WHEREAS, children in foster care today have complex and challenging needs that must be met within family and community-based settings whenever possible; and

WHEREAS, foster care placements are intended to be temporary residences because the primary goal of foster care is to return the child to his home or to find an alternative permanent placement; and

WHEREAS, foster care providers, as part of a team that works to return the child to his home or to find a more permanent home for the child, are required by the Code of Virginia and by signed agreements to participate actively in service planning and the delivery of services; and

WHEREAS, in order for foster care providers to meet the needs of children in their care, they need to receive training, supportive services, information, and adequate compensation; and

WHEREAS, caring for children in foster homes raises liability concerns among foster care providers and foster care families about their property and the other children in their homes; and

WHEREAS, foster parents, in the course of integrating foster care children into their families, may develop strong emotional ties to these children and foster care children may develop strong emotional ties to their foster parents and families; and

WHEREAS, these emotional ties may result in feelings of loss for the family and the child when the child leaves the home; and

WHEREAS, there is a need for local departments of social services to provide adequate notice, support and assistance to help families and children when a placement changes; and

WHEREAS, certain rights are now provided to foster parents in the Code of Virginia; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Department of Social Services be requested to study the need for a Bill of Rights for foster care providers. In assessing the need for a Bill of Rights, the department is requested to address (i) support for foster care providers in such areas as training, information provided about foster care children placed in the provider's care, and other supportive services; (ii) assistance provided by local departments of social services and other agencies; (iii) grievance and appeal procedures; (iv) liability issues and liability coverage; and (v) the adequacy of existing statutory protections. The department shall consult with organizations within the foster care provider community in developing its recommendations.

The department shall complete its work in time to submit its findings and recommendations to the Governor and the 1995 Session of the General Assembly as provided in the procedures of the Division of Automated Systems for the processing of legislative documents.

Children in Foster Care: Fact Sheet

Total Number: 6,313 as of 6-30-94

	Number	Percent		Number	Percent
Sex			Types of Placements		
male	3205	50.8%	adoptive home (not final)	295	4.7%
female	3108	49.2%	non-relative foster home	3230	51.2%
Ages			relative foster home	253	4.0%
under 1 yr. old	193	3.1%	permanent foster home	422	6.7%
1 to 5 yrs. old	1539	24.4%	residential facility	548	8.7%
6 to 9 yrs. old	1007	16.0%	independent living	163	2.6%
10 to 12 yrs. old	842	13.3%	own home, waiting		
13 to 18 yrs. old	2505	39.6%	placement	13	.2%
19+ yrs. old	227	3.6%	own home	384	6.1%
Race			runaway	87	1.4%
white	2743	43.5%	emergency shelter	72	1.1%
black	3387	53.7%	other	239	3.8%
American Indian	15	.2%	unapproved home	119	1.9%
oriental	55	.9%	child placing agency regular		
hispanic	113	1.7%	foster home	441	7.0%
Program goals			child placing agency		
return home	3297	52.2%	permanent foster home	25	.4%
adoption	1120	17.7%	state institution	22	.3%
permanent foster care	607	9.6%	Siblings		
placement with relatives	280	4.4%	no siblings	925	14.7%
continued foster care	905	14.3%	siblings, none in care	1796	28.4%
to be determined	104	1.6%	siblings, some in care	1266	20.1%
Legal Basis for Entering Care			siblings, all in care	2192	34.7%
abuse/neglect	4151	65.8%	unknown	134	2.1%
needs service (chins)	624	9.9%	Average Length of Care		
delinquency	160	2.5%	3.0 years		
entrustment agreement	594	9.4%			
request relief	696	11.0%			
can't be determined	88	1.4%			