

**REPORT OF THE
DEPARTMENT OF SOCIAL SERVICES**

**Report on the Policies and Procedures
Related to Expediting Adoptions**

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



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COMMONWEALTH OF VIRGINIA
DEPARTMENT OF SOCIAL SERVICES
Office of the Commissioner

Anthony Conyers, Jr.
COMMISSIONER

June 30, 2007

TO: The Honorable Timothy M. Kaine
Governor of Virginia

The Honorable Vincent F. Callahan, Chairman
House Appropriations Committee

The Honorable John H. Chichester, Chairman
Senate Finance Committee

The Honorable John S. Reid, Chairman
Commission on Youth

FROM: Anthony Conyers, Jr.

A handwritten signature in black ink, appearing to read "Anthony Conyers, Jr.", written over the printed name.

SUBJECT: Report on the Policies and Procedures Related to Expediting Adoptions

The report contained herein is submitted pursuant to Item 338 P of the Appropriations Act for the 2006–2008 Biennium which directs the Virginia Department of Social Services (VDSS) to conduct a study on foster care and adoption policies and make recommendations to expedite the adoption of children from foster care as well as children not in the state's care.

During the past year the workgroup formed in response to this mandate studied Virginia's policies and practices that are integral to the timely completion of adoption for children both within the foster care system and those adopted through other means. As a result of this work, a number of recommendations were developed. The implementation of these recommendations will improve Virginia's ability to expedite the adoption of children and increase permanency for children with the goal of adoption.

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Attachment

Report on the Policies and Procedures Related to Expediting Adoptions

PREFACE

The Appropriations Act for the 2006-2008 Biennium (Item 338, P) requires the Virginia Department of Social Services to conduct a study on expediting adoptions in the Commonwealth. It instructs the Commissioner to continue reviewing current policies on foster care and adoption and to make recommendations to expedite the adoption of children from foster care as well as those children not in the state's care. The Commissioner is instructed to recruit a national expert on the adoption of children to co-chair the task force and include LDSS staff, adoptive parents, and other interested stakeholders on the task force. The report is to be presented to the Commission on Youth and the Chairmen of the Senate Finance and House Appropriations Committees by June 30, 2007.

**Report on the
Policies and Procedures Related to Expediting Adoptions**

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Report on the Policies and Procedures Related to Expediting Adoptions

Executive Summary

The purpose of adoption is to place children who have been permanently and legally separated from their birth parents with adoptive families and to prevent adoption dissolution by providing services to strengthen and support families after the adoption is finalized.

This report is in response to the legislative mandate to study policies and procedures related to expediting adoptions for children in the foster care system as well as those children who are adopted but not placed in foster care. The Virginia Department of Social Services (VDSS) in collaboration with a vested group of stakeholders made recommendations for expediting adoptions after much discussion, a review of state and national data and research, and a survey of practice and policy issues of the 120 local departments of social services (LDSS).

The findings of the workgroup include:

- Virginia lacks adequate numbers of trained, adoption-dedicated social workers, with sufficient knowledge of the policies and practices needed to expedite adoptions.
- To support LDSS in their work to expedite adoptions, VDSS needs regional adoption specialists to focus on the training and technical needs of localities.
- The lack of mandated training for foster care and adoption workers negatively affects the recruitment and retention of trained workers and results in higher staff costs for the Commonwealth.
- The lack of mandated training for foster care and adoptive parents makes it difficult to recruit and retain adequate numbers of individuals to adopt.
- Annual statewide training events are needed that include all partners involved in the adoption process, in order to share knowledge about adoption best practices and create collaborative relationships that will support the adoption process.
- The deficiencies in the state's child welfare data system prevent localities from being able to monitor their own progress in achieving adoptions in a timely manner.
- The absence of regional child welfare data system trainers/technical support personnel denies localities the support needed to understand how to enter data correctly and use system reports to monitor their own progress towards adoption outcomes.
- The process for appealing termination of parental rights reduces the timely adoption of children and results in higher costs to the Commonwealth.
- Evidence-based and best practices known to expedite the adoption process are not practiced statewide due to the lack of resources necessary for implementation in all localities.

- Recent legislative changes in the 2006 General Assembly removed barriers to and increased options for, expediting adoptions of children not placed in the foster care system.

In order to address these findings, the workgroup makes the following recommendations to improve both public and private agencies' ability to expedite adoptions:

1. Make the Juvenile and Domestic Relations District Court a court of record with direct appeal to the Court of Appeals in cases in which the goal of adoption has been approved for a child in foster care and termination of parental rights has been ordered over the objection of a parent. For these limited cases, the de novo appeal to the circuit court should be eliminated
2. Increase staff positions dedicated to adoption at the state and local levels.
3. Virginia should mandate adoption competency training for all foster care and adoption workers through statutory language similar to that which exists for mandated training for Child Protective Services workers.
4. Virginia should provide the fiscal resources necessary to fund at least a minimum number of required pre-service and in-service training hours for foster care and adoptive parents.
5. Virginia should fund an annual statewide adoption training conference that includes all partners involved in the adoption process.
6. Provide state funds through the Appropriations Act to supplement federal money used to fund post-adoption services.
7. Ensure the means to provide on-going monitoring and modifications of the State child welfare data system that will continue once the current system upgrades are complete.
8. Create five dedicated positions within the VDSS to provide statewide training and technical assistance to LDSS on the state child welfare data system.

Since the 1980's, federal and state laws have been enacted to ensure that children placed in foster care do not live out their young lives in temporary homes or institutional living arrangements. The notions of safety, permanency and well-being for all children in foster care are the driving philosophy behind all child welfare practices today. Child welfare agencies and the courts are being asked to establish permanent homes for children in a more efficient and timelier fashion than ever before. The findings of this study highlight many of the challenges Virginia faces in increasing the timeliness of adoption for children for whom this goal is appropriate. The recommendations in this study are major steps towards meeting those challenges and increasing permanency for those children awaiting adoption in the Virginia child welfare system.

Report on the Policies and Procedures Related to Expediting Adoptions

Study Mandate

The Appropriations Act for the 2006-2008 Biennium (Item 338, P) states:

- 1. The Commissioner shall continue reviewing the Commonwealth's current policies on adoption and foster care and recommend mechanisms to expedite the adoption of children from foster care as well as children not in the state's care. The Commissioner shall recruit a national expert on the adoption of children to co-chair the task force. The task force shall include the Commissioner, a national expert, local department of social services staff, adoptive parents, and other interested stakeholders. The task force shall report its findings and policy recommendations to the Commission on Youth and the Chairmen of the Senate Finance and House Appropriations Committees no later than June 30, 2007.*
- 2. General fund appropriations in Item 354 of Chapter 2, 2006 Special Session I Acts of Assembly shall be re-appropriated for expenditure in this item for task force activities during the 2006-08 biennium.*

Federal and State Program Authority

The following provides the legal authority for the programs and issues addressed in this report:

Federal:

Title IV, Part E, (42. U.S.C. 670 et seq.) of the Social Security Act

State:

Title 63.2, Subtitle III, Chapter 9 (§63.2-900 through 63.2-912), Chapter 12 (§63.2-1200 through 63.2-1259) and Chapter 13 (§63.2-1300 et seq.) of the *Code of Virginia*. Sections 16.1-282.1, 16.1-283 and 17.1-405 of the *Code of Virginia*.

Regulations:

22 VAC 40-200, Foster Care – Guiding Principles
22 VAC 40-210, Foster Care – Assessing Client's Services Needs
22 VAC 40-240, Non-Agency Placements for Adoption- Consent
22 VAC 40-250, Agency Placement Adoptions – AREVA
22 VAC 40-260, Agency Placement Adoptions – Subsidy

In addition, the Virginia Department of Social Services (VDSS) policy related to adoption and foster care is found in Volume VII, Section I and Section III, Chapter C.

Program Background

Federal guidelines for child welfare services can be found in Titles IV-B and IV-E of the Social Security Act. These titles contain requirements for administering and funding foster care and adoption programs at the state level.

Foster care is designed to be a temporary service for children who cannot remain in their own home. The purpose of foster care is to afford a child a safe haven while the issues that required the child's removal are eliminated or a more permanent placement is located in which the child will complete the developmental process leading to adulthood. In Virginia, "permanent placements" or "permanency goals" are hierarchical in nature, recognizing that children thrive best when placed with family. The permanency goals in Virginia begin with the reunification of the child with his family when safe to do so. Placing the child with a relative who will assume legal custody is the second permanency goal and if neither of the first two goals is feasible, adoption should be the goal for the child.

The purpose of adoption is to place children who have been permanently and legally separated from their birth parents with adoptive families and to prevent adoption dissolution by providing services to strengthen and support families after the adoption is finalized. Over the past 30 years, Virginia has developed laws, policies and procedures to improve adoption opportunities for children who historically would have remained in foster care with no permanent goal. This report focuses solely on the policies and practices that facilitate the adoption of children for whom this is the court recognized permanency goal.

Program Developments Relevant to Expediting Adoptions

Virginia has long recognized the need to ensure that children who are available for adoption are able to be adopted in a timely manner.

- Beginning with the Adoption Assistance and Child Welfare Act in 1980, Congress required states to provide adoption subsidy payments for special needs children who were adopted. Virginia had already established an Adoption Subsidy Program (1974) to support special needs children once adopted.
- The Adoption and Safe Families Act of 1997 required hearings to bring judicial oversight to the foster care and adoption processes in order to avoid children "drifting" in foster homes for years without a permanent family. Recognizing the need for juvenile and domestic relations court judges to provide oversight to ensure timely permanency for children in foster care, Virginia had enacted such laws prior to 1997.

The federal Child and Family Service Review found Virginia not in substantial conformity on the adoption outcome

- The Adoption and Safe Families Act of 1997 strengthened the push to expedite adoption by mandating adoptions of children within 24 months of their entry into foster care if they could not be returned to their prior custodian or a relative. In order to monitor the compliance of all states with federal child welfare outcomes, the United States Department of Health and Human Services conducted Child and Family Service Reviews (CFSR) beginning in 2000. Virginia's first CFSR occurred in 2003. During this review, the Commonwealth was found to not be in substantial conformity with the adoption outcome. As a result, Virginia instituted a Program Improvement Plan (PIP) which included a goal of increasing the number of adoptions completed within 24 months of entry in foster care from 20.2 percent to 23.1 percent. This goal was achieved in 2006. Despite the increase in timely adoptions made during the PIP, Virginia's percentage of adoptions finalized within 24 months still has not reached the national average of 32 percent.

Legislative changes for adopting children not in the foster care system supported a more expeditious process for this population.

- During the 2006 legislative session, the Virginia General Assembly passed laws that included provisions designed to expedite the adoption of children who are not in the foster care system. These changes simplify a number of processes that should result in a decrease in the amount of time to finalize adoptions for non foster care children (e.g., allowing birth parents increased options for using private or public adoption procedures to place their children for adoption).

Expediting Adoptions Workgroup

In response to the legislative mandate for this study, the Expediting Adoptions Workgroup (workgroup) was formed. The workgroup was comprised of 47 individuals from VDSS, local departments of social services (LDSS), the Virginia League of Social Services Executives, private child placing agencies, the Office of Comprehensive Services, juvenile and domestic relations court judges, city and county attorneys, guardian ad litem, Court Appointed Special Advocates, a university law professor and adoptive parents. (See Attachment I for a list of workgroup members.)

National expertise was provided by two individuals representing a wide range of experience and knowledge in adoptions, Ada White of the Child Welfare League of America and John Levesque from the National Child Welfare Resource Center for Adoption. The workgroup reviewed materials related to expediting adoptions, and reviewed survey results of LDSS regarding policy and practices that hindered as well as supported timely adoptions. Attachment II lists materials used by the group in their work.

Findings of the Workgroup

The findings of the workgroup include:

- Virginia lacks adequate numbers of trained, adoption-dedicated social workers, with sufficient knowledge of the policies and practices needed to expedite adoptions.
- To support LDSS in their work to expedite adoptions, VDSS needs regional adoption specialists to focus on the training and technical needs of the localities.
- The lack of mandated training for foster care and adoption workers negatively affects the recruitment and retention of trained workers and results in higher staff costs for the Commonwealth.
- The lack of mandated training for foster care and adoptive parents makes it difficult to recruit and retain adequate numbers of individuals to adopt.
- Annual statewide training events are needed that include all partners involved in the adoption process, in order to share knowledge about adoption best practices and create collaborative relationships that will support the adoption process.
- The deficiencies in the state's child welfare data system prevent localities from being able to monitor their own progress in achieving adoptions in a timely manner.
- The absence of regional child welfare data system trainers/technical support personnel denies localities the support needed to understand how to enter data correctly and use system reports to monitor their own progress towards adoption outcomes.
- The process for appealing termination of parental rights reduces the timely adoption of children and results in higher costs to the Commonwealth.
- Evidence-based and best practices known to expedite the adoption process are not practiced statewide due to the lack of resources necessary for implementation in all localities.
- Recent legislative changes in the 2006 General Assembly removed barriers to and increased options for, expediting adoptions of children not placed in the foster care system.

Recommendations

Through the course of the workgroup meetings, two key areas emerged related to foster care and adoption practice, policy and procedure relevant to the goal of expediting adoptions: legal practices and resource needs.

Legal Practice

Background

Changes in federal and Virginia law in the mid-1990s concerning the handling of cases involving children who are abused, neglected or placed in foster care effected a radical transformation in court process and the applicable substantive law. These legislative mandates provide the legal framework within which courts and LDSS now work to expeditiously place foster children in safe and permanent homes. Virginia laws, enacted by the General Assembly in 1997 and 1998 as applicable in juvenile and domestic relations district courts, are effective in advancing permanency for children in foster care and promoting reunification with parents when that is the safe and appropriate placement goal.

However, after these cases are fully heard in the juvenile and domestic relations district court and final orders are entered, these orders are subject to appeal to the circuit court. As with all other juvenile and domestic relations district court cases, appeals to the circuit court are treated as new trials, known as *de novo appeals*. There is the possibility of a full reconsideration of all actions taken by the juvenile and domestic relations district court. The *de novo* appeal remains a fundamental flaw in Virginia's court procedures affecting permanency for these children. Most egregiously, it affects the ability to permanently place children for whom the goal of adoption has been documented and approved by the juvenile and domestic relations district courts after a lengthy foster care planning process and after a full trial in which termination of parental rights is granted. Providing parents with two appeals of the juvenile and domestic relations district court is granted in § 16.1-296 D of the *Code of Virginia* which notes: "When an appeal is taken in a case involving termination of parental rights brought under § 16.1-283, the circuit court shall hold a hearing on the merits of the case within ninety days of the perfecting of the appeal." This provision in the law has been in effect since 1986. Unfortunately, termination cases are not routinely accorded this expedited consideration in Virginia's circuit courts. There are often substantial delays in scheduling these circuit court trials, conducting the trials, and the entry of final appealable orders by the circuit courts. While a termination of parental rights case winds through the court system toward a final decision, a child awaits a permanent home.

Recommendation 1: Make the Juvenile and Domestic Relations District Court a court of record with direct appeal to the Court of Appeals in cases in which the goal of adoption has been approved for a child in foster care and termination of parental rights has been ordered over the objection of a parent. For these limited cases, the *de novo* appeal to the circuit court should be eliminated.

- The *Code of Virginia* should be amended to eliminate *de novo* appeals from the juvenile and domestic relations district court to the circuit court for PERMANENCY PLANNING ORDERS issued by the juvenile and domestic relations district court which approve adoption as the goal for a child in foster care (§ 16.1-282.1) and for the associated ORDER FOR INVOLUNTARY TERMINATION OF PARENTAL RIGHTS

pursuant to § 16.1 –283. For any final order or judgment of the juvenile and domestic relations district court in these two case types, an appeal should be taken directly to the Court of Appeals (§ 17.1-405).

- All of the affected cases would be within the exclusive original jurisdiction of the juvenile and domestic relations district court and tried on the record in the juvenile and domestic relations district court by the judges sitting in that court. The affected cases would be prepared for appeal to the Court of Appeals, when noted, by the Clerk’s Office of the juvenile and domestic relations district court. Due process protections for parents, such as the right to court-appointed counsel and the associated support for the appeal, and for the child, such as the appointment of a guardian ad litem and the obligation of this lawyer to participate in the appeal in the Court of Appeals, would remain as they currently exist.

Attachment III contains summary data from a 2005 study that considered the circuit courts’ processing of these cases and the anticipated number of court cases that could be affected by this recommendation, if enacted into law.

Resource Needs

Background

“Entrusted with the care of the nation’s most vulnerable children and families, child welfare workers are tasked with making life-preserving and life-altering decisions on a daily basis. Workloads can be high and work environments unpredictable; for this, child welfare workers receive relatively low pay in comparison to other human services positions. Public child welfare administrators face the daily challenge of developing strategies to recruit and retain a qualified competent workforce for this vital profession”. (American Public Human Services Association: “Report from the 2004 Child Welfare Workforce Survey”, State Agency Findings, February 2005)

Resource needs - particularly human resources - were identified as one of the primary challenges to expediting adoptions in Virginia. Implementing best practices for adoption, developing outstanding training curricula and developing the most user-friendly child welfare data system cannot improve practice if resources to support these practices are inadequate.

Virginia is currently updating its child welfare data system but lacks staff to provide on-going training and technical assistance to LDSS once it is implemented. Virginia is facing its second federal CFSR in 2009 and is still working to raise its percentage of children adopted within 24 months of entering care to meet the 2003 national average. Research shows that mandated training for social workers and foster and adoptive parents is critical to recruitment and retention of these individuals who serve children on a daily basis. Virginia does not mandate training for either of these populations.

The recommendations below reflect the resource needs identified by the workgroup as most critical to improving child welfare in Virginia in such a way so as to increase the timeliness of adoptions through personnel and other resources.

Recommendation 2: Increase staff positions dedicated to adoption at the state and local levels.

- **Five regionally based VDSS adoption specialists positions should be created to provide consultation, training, and on-site technical assistance to LDSS.**

VDSS currently provides regionally based experts who provide consultation, technical assistance and on-site training to the LDSS in all service program areas. However, the specialists for adoption are also consultants for foster care.

Currently, these five specialists are available to provide consultation for over 11,000 potential foster care cases annually¹ and approximately 7000 post-adoption cases per month. Foster care and adoption comprise the largest on-going service base in the child welfare system, having spent over \$381,000,000 (federal, state and local funding) on the care of children in state fiscal year (SFY) 2006.² The complexity of foster care and adoption law and practice requires five separate policy manuals, each covering different aspects of managing foster care or adoption cases. And yet, five regionally based specialists respond to all foster care and adoption requests for policy interpretations, technical assistance, training and agency monitoring and investigations.

It is recommended that five state level positions for employment at the regional level to serve as adoption specialists be authorized and funded by the General Assembly starting in SFY 2009.

- **VDSS recommends increasing the number of dedicated adoption staff at the local level based on the results of a new social worker caseload study.**

Newport News Department of Social Services (Newport News) created a dedicated adoption unit in 2000. Within three years, they saw a 35 percent increase in adoption rates and a 25 percent decrease in the total population of youth in their foster care system. Since 2003, Newport News reports an average adoption rate of 30 percent with 39 percent of those youth over the age of 10. Charlottesville Department of Social Services hired an adoption worker with the general fund money allocated by the General Assembly to support the CFSR Program Improvement Plan (PIP). A 150 percent increase in adoptions was realized in one year.

VDSS has contracted with Hornby-Zeller Associates Inc. (HZA) to update the Virginia Workload Study conducted in 2000. From May to June 2007, HZA will

¹ Virginia Department of Social Services: Virginia Child Welfare Outcome Report, aggregate data SFY 2006

² Virginia Department of Social Services: Annual Statistical Report: Commonwealth of Virginia, 2007.

sample foster care and adoption cases and will track worker activity on those cases. Upon the completion of the Virginia Workload Study, VDSS will be able to determine the amount of time workers are spending on tasks related to the adoption process. The number of workers needed to handle the adoption caseload in Virginia can be determined by multiplying the average time necessary to complete all the duties a dedicated adoption worker's job encompasses by the number of adoption cases divided by the number of hours a worker has to work in a given month. VDSS can then compare this number to the number of current adoption workers to determine the number of new worker positions needed at the local level to meet Virginia's need.

Recommendation 3: Virginia should mandate adoption competency training for all foster care and adoption workers through statutory language similar to that which exists for mandated training for Child Protective Services workers.

Virginia does not mandate training for foster care and adoption workers. The importance of training for foster care and adoption workers is highlighted in a comprehensive study of child welfare workforce development conducted by the American Public Human Services Association (APHSA). Forty-two states, including Virginia, responded to the 2004 survey producing the following significant findings:

- About 70 percent of the states mandate an average of 151 hours of training for foster care and adoption workers prior to working with a case load of children and families;
- About 70 percent of the states mandate an average of 30 hours of in-service (or on-going) training for foster care and adoption workers each year;
- An average of 88 percent of responding states identified the top three strategies for worker retention as increased/improved training; increased educational opportunities; and increased/improved pre-service and in-service training for child welfare workers;
- Turn-over rates between 2000 and 2004 for foster care and adoption workers reached a high of 17.7 percent and generic worker turn-over rates rose to 19.9 percent; and
- The cost of replacing key workers is estimated to be up to 200 percent of the person's annual salary and that:
 - Losing an employee costs between 6 and 18 months pay;
 - Professionals and managers cost twice as much to replace; and
 - Eight states that reported detailed data on the financial implications of staff turnover of 63 foster care, adoption or supervisory positions estimated an annual financial impact of \$108,000,000 lost to replacement costs (this is in addition to the cost of salaries to pay replacement staff).

Training in case management practices that would expedite adoptions must focus on adoption competencies similar to those drafted by the National Resource Center on Adoption and other best practices known to facilitate adoption such as Concurrent Permanency Planning. While LDSS acknowledge the value of on-going training for all

staff, they have historically opposed this mandate due to the lack of funding to support such a directive. Although mandating training requires state money to fund the training, federal matching money can be accessed through federal Title IV-E training dollars (60 percent state money/40 percent federal money for SFY 2008).

It is recommended that Virginia mandate training for foster care and adoption workers similar to that which exists in the *Code of Virginia* for Child Protection Services workers and that funding be provided to support adoption competent training. It has been determined that the funding for an additional 40 workers would be needed so that adequate coverage could be provided while workers are in training. Funding for other training costs (e.g., travel) is provided by VDSS.

Recommendation 4: Virginia should provide the fiscal resources necessary to fund at least a minimum number of required pre-service and in-service training hours for foster care and adoptive parents.

In the CFSR Statewide Assessment completed prior to the 2003 review, over 75 percent of Virginia's foster parents were identified as adopting at least one child placed in their home as a foster care child. Despite this number, LDSS continue to highlight the difficulty they experience in recruiting and retaining homes. Lack of adequate resources to recruit and retain foster and adoptive homes has been tied to the lack of training and support for pre-service and on-going or in-service training of foster and adoptive parents. Virginia is one of five states identified as having no minimum hours of training required for either pre-service or in-service training for foster and adoptive parents.³ As a result, any training provided is purely a local choice. Training has been shown to be a most critical factor in retaining foster and adoptive homes.⁴

VDSS currently supports training of foster and adoptive homes through a Memoranda of Agreements with three universities employing a total of six training coordinators and known as the Community, Resource, Adoptive and Foster Family Training Program (CRAFFT). VDSS also purchased and made available through CRAFFT and directly to all local departments of social services, the Child Welfare League of America's "Parent Resources for Information, Development, and Education" (PRIDE) foster parent training curriculum. Although these state-provided resources make it possible for many local departments of social services to provide initial training for foster and adoptive parents, they do not cover all the training needs in the state. Resources are needed to assist localities in funding trainers and purchasing additional curricula to provide on-going annual training. Based on the number of foster and adoptive homes recruited, trained and approved for the placement of children on an on-going basis, some LDSS will require a full time trainer while other LDSS can share a full time trainer on a regional basis. It is estimated that 80 workers are needed to provide this training.

³ National Resource Center for Family-Centered Practice and Permanency Planning at the Hunter College School of Social Work, April, 2007.

⁴ Ibid

Recommendation 5: Virginia should fund an annual statewide adoption training conference that includes all partners involved in the adoption process.

Training is provided for attorneys, social workers, private practitioners, judges and other individuals participating in the adoption process. However, there is no unified state directed training available to bring together all partners involved in Virginia’s adoption process. As a result, training is focused only on those avenues relevant to the particular group for whom it is provided. National conferences on adoption through valuable organizations such as the North American Council for Adoptable Children (NACAC) are open to all disciplines but are not Virginia-specific. New York, Pennsylvania, Illinois and Georgia are only a few examples of states that conduct statewide adoption conferences and often do so in partnership with the private child welfare sector. State funds may be used to “draw down” federal dollars to support such training (see recommendation 3), thus sharing the cost of the training with the federal government.

Virginia should allocate funds to support a minimum of one statewide conference annually that includes all partners in the adoption process and focuses on adoption issues unique to Virginia.

Recommendation 6: Provide state funds through the Appropriations Act to supplement federal money used to fund post adoption services.

VDSS funds an Adoptive Family Preservation (AFP) program that is managed through a private licensed child placing agency and serves nine program sites in the state. The design for post adoption services used by Virginia’s AFP was strongly influenced by the work of the National Consortium for Post Legal Adoption Services which included a representative from Virginia. This model of work with families who adopt recognizes that adoption brings with it its own unique set of challenges that, left unaddressed, may result in the dissolution of the adoption and re-entry of the child into the foster care system.

Funding for this program is from capped federal Title IV-B funds. As a result, there has been no increase to the funding of the AFP during its eight years of operation despite an evaluation that suggests it is a “highly effective post legal program of services designed and operated in a manner consistent with best practice standards.”⁵ The AFP served over 496 self-referred families, providing case management, counseling, crisis intervention, clinical consultation, information and referral, and parent support groups. Families interviewed recommended that AFP services be expanded but without additional state funding to support such services, AFP has reached the maximum level of families it is able to serve.

Recommendation 7: Ensure the means to provide on-going monitoring and modifications of the state child welfare data system that will continue once the current system upgrades are complete.

⁵ PolicyWorks, Ltd.: “Virginia’s Adoptive Family Preservation Program”, 2005-2006 Evaluation Report, p. 37.

VDSS is currently upgrading its child welfare data system to meet federal requirements for semi-annual data submissions on safety, permanency and the well-being of children in foster care and the data entry and report needs of local users. Once upgraded, there will be a need to maintain adequate Information Technology staff dedicated to keep pace with new federal requirements and the needs of its users. This need includes regular statewide training on system use to ensure the accuracy of the data that are being entered into the system. Benefits of maintaining dedicated child welfare system Information Technology positions at the VDSS include:

- Consistent monitoring of the system’s capabilities to ensure responsiveness to local users and allow for new data elements to be added to the system in a timely manner.
- Local agency staff will have immediate access to their own data that will let them:
 - Establish baselines for adoptions timeframes;
 - Develop and monitor outcome measures for improving timely adoptions;
 - Identify practice barriers to expediting adoptions; and
 - Identify and correct data entry problems.

Recommendation 8: Create five dedicated positions within VDSS to provide statewide training and technical assistance to LDSS on the state child welfare data system

Local users report increased inconsistencies in understanding and using the current child welfare data system due to the lack of trainers and technical assistance (T/TA) personnel provided through VDSS. Currently, the only training available to users is the four day new worker policy training course offered through Virginia Commonwealth University. Anecdotal reporting by LDSS staff states that a team of trainers, similar to what VDSS had in place several years ago, should be reinstated and would:

- Provide on-going training to workers to increase their knowledge of system use beyond the minimal system training received in the new worker training course;
- Create consistency statewide on how to interpret and appropriately use data fields;
- Assist LDSS in learning how to use data reports in real time to access, monitor and correct their own data entry errors; and
- Assist LDSS in learning how to run reports to use in monitoring current practice and progress toward adoption outcomes.

Conclusions

Since the 1980’s, federal and state laws have been enacted to ensure that children placed in foster care do not live out their young lives in temporary homes or institutional living arrangements. The notions of safety, permanency and well-being for all children in foster care are the driving philosophy behind all child welfare practice today. Child welfare agencies and the courts are being asked to establish permanent homes for children in a more efficient and timelier fashion than ever before. The findings of this study highlight many of the challenges Virginia faces in increasing the timeliness of adoption for

children for whom this goal is appropriate. The recommendations in this study are major steps towards meeting those challenges and increasing permanency for those children awaiting adoption in the Virginia child welfare system.

Attachment I

Members of the Expediting Adoption Workgroup

Anthony Conyers, Jr.	VDSS, Commissioner
Dana Neidley	Charlottesville DSS, Chief of Social Work Programs
Sarah Snead	Chesterfield/Colonial Heights DSS, Director
Carolyn Fowler	Fairfax DSS
Jane Crawley	Henrico DSS, Director
Christina Smith	Newport News DSS, Senior Social Work Supervisor
Paul McWhinney	Richmond DSS, Director
Rebecca Ricardo	Coordinators 2 Inc., Licensed Clinical Social Worker and Adoptive Parent
Carol Wilson	Office of Comprehensive Services, Foster Care/Adoption Specialist
Janee Joslin	Attorney, Virginia Beach
Robert “Louis” Harrison	Attorney, Bedford County
Susan Reed	Attorney, Staunton
Marc Yeaker	Attorney, Richmond
Dawn Espelage	Roanoke County DSS, Social Work Supervisor
Hon. Elizabeth Willis	Wise/Norton J&DR Court, Judge
Hon. Janice Wellington	Prince William J&DR Court, Judge
Hon. A. Ellen White	Campbell J&DR Court, Judge
Hon. Philip Wallace	Bedford J&DR Court, Judge
Hon. Philip Trompeter	Roanoke County J&DR Court, Judge
Hon. Gayl Carr	Fairfax County J&DR, Judge
Hon. Jay Dugger	Hampton J&DR Court, Judge
Hon. J. Martin Bass	Stafford Circuit Court, Judge
Hon. Wilford Taylor, Jr.	Hampton Circuit Court, Judge
Andrew Herrick	Albemarle County Attorney’s Office
John Oliver	Deputy City Attorney, Chesapeake
Michael Chernau	Chesterfield County Attorney’s Office
Joan O’Donnell	Attorney, Hopewell
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Attachment II

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Attachment III

Elimination of the De Novo Appeal to Circuit Court for Certain Cases

I. Summary of Study

Termination of Parental Rights in the Circuit Courts of the Commonwealth: An Analysis of Time Frames and Court Practices

A study was completed in 2005 by the Court Improvement Program (CIP) in the Office of the Executive Secretary, Supreme Court of Virginia (OES), of termination of parental rights (TPR) cases appealed from juvenile court to circuit court. It included cases disposed in selected Virginia circuit courts between January 1, 2003 and June 30, 2004. In this 18-month period of time, 2,459 TPR cases were concluded in all Virginia juvenile courts. A total of 565 of these cases were appealed to the circuit court.

The methodology for the study included:

- 17 circuit courts were identified that had 10 or more TPR appeals.
- 9 of the 17 courts were chosen as project sites representing a mixture of urban and rural circuit courts across the Commonwealth.
- 245 or 43% of all children's termination of parental rights cases (565) finalized during the study period were considered.

Applicable Virginia law states in § 16.1-296 D that:

“When an appeal is taken in a case involving termination of parental rights brought under § 16.1-283, the circuit court shall hold a hearing on the merits of the case within 90 days of the perfecting of the appeal.”

The components of the study:

- described the affected children and their families;
- assessed the time frames applicable to these cases;
- examined the number of hearings to finalize cases; and
- examined the process for handling these cases.

The portrait of the children represented in these 245 cases in circuit court is as follows:

- Average age: 4.7 years when placed in foster care
6.8 years at entry of circuit court order
- Length of time in foster care:
Range from 6 months to 6.9 years
Median of 2.2 years in care
- On average, the circuit court case took about 4.5 months.

- 92% of the children were removed from their parents based on abuse or neglect.

The study analysis reviewed three time frames in the life of these cases:

1. Notice of appeal to first hearing in circuit court
2. Notice of appeal to entry of a circuit court final order
3. First hearing in circuit court to entry of a circuit court final order.

The time frame analysis focused upon *parent* cases instead of *child* cases. The case in circuit court is a parent case. The parent-centered time frame analysis reduces the variability due to the existence of large or small sibling groups. Therefore, there is a switch from 245 child cases to 130 parent cases. In addition, 21 of the 245 child cases were withdrawn after the notice of appeal was filed. Withdrawn appeals are most common among substance abusing and incarcerated parents. Withdrawn cases are not included in the time frame analysis.

In this study of termination of parental rights cases in 9 circuit courts:

- From notice of appeal to first hearing:
 - Average (median) of 104 days.
 - 60% of cases took longer than 90 days.
 - Range in number of days over 90 was 92-315.
 - Average in 5 of 9 courts exceeded the 90-day standard for the first hearing.
- From first hearing on the merits in circuit court to entry of circuit court final order:
 - Average (median) of 34 days.
 - Range in number of days was 0-358.
 - Average in 5 of 9 courts exceeded 30 days from first hearing on the merits to entry of circuit court final order.

Time Frames by Timeliness

Time Frames in Median Number of Days	Cases on Time (Meet 90- day standard)	Cases Not on Time (Outside 90-day standard)
Notice of Appeal to Docket	29	39
Receipt of File to Docket	17	27
Notice of Appeal to First Hearing	69	137
First Hearing to Final Order	27	36
Notice of Appeal to Final Order	88	216

A continuance was granted in 32% (n=41) of parent’s termination of parental rights cases reviewed in circuit court.

Final orders in the cases studied showed that the circuit court affirmed the findings of the juvenile court in 87.6% of these TPR cases. Roughly one in five, 25 or 19.2%, of the final circuit court orders was appealed to the Virginia Court of Appeals. Parental

rights were terminated by the Court of Appeals in the majority of these cases, 21 or 84%.

Parental rights were not terminated by the circuit court in four cases that were subsequently appealed to the Court of Appeals. In these cases the LDSS appealed the circuit court's decision. The Court of Appeals affirmed the findings of the circuit court in two cases and reversed the findings and remanded the other two cases for further proceedings in the circuit court. The circuit court later terminated parental rights in both of these cases as a result of these proceedings.

II. Estimated Number of Court Cases Affected by Report Recommendation:

For calendar year 2005, there were 1,852 cases involving both voluntary and involuntary termination of parental rights concluded in the juvenile courts of the Commonwealth. Some smaller number would be affected by this proposal for those litigants who choose to appeal the *involuntary* termination of their parental rights. In accordance with the CIP/OES study completed in 2005 and discussed above, it could be estimated that approximately 23% or 426 of the involuntary termination of parental rights cases could be appealed to the circuit court. Some number of these cases could then be expected to be similarly appealed to the Court of Appeals.