



**FINAL REPORT OF
THE VIRGINIA COMMISSION
ON YOUTH**

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

Barriers to Kinship Care in Virginia

September 2011



COMMONWEALTH of VIRGINIA
Commission on Youth

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September 24, 2011

TO: The Honorable Robert F. McDonnell, Governor of Virginia

and

Members of the Virginia General Assembly

During the 2010 General Assembly Session, the Virginia Commission on Youth was directed to conduct a study of barriers to kinship care in Virginia. At its November 15, 2010 meeting, the Commission approved the recommendations for this study. Those recommendations are included in this report, which is provided for your consideration.

This report represents the work of many government and private agencies and individuals who provided input to the study. The Commission gratefully acknowledges their support to this effort.

Respectfully submitted,

A handwritten signature in cursive script that reads "Yvonne B. Miller".

Yvonne B. Miller

MEMBERS OF THE VIRGINIA COMMISSION ON YOUTH

From the Senate of Virginia

Yvonne B. Miller, Chair
Harry B. Blevins
R. Edward Houck

From the Virginia House of Delegates

Christopher K. Peace, Vice Chair
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I. Authority for Study

Section 30-174 of the *Code of Virginia* establishes the Commission on Youth and directs it to "...study and provide recommendations addressing the needs of and services to the Commonwealth's youth and their families." This section also directs the Commission to "...encourage the development of uniform policies and services to youth across the Commonwealth and provide a forum for continuing review and study of such services."

Section 30-175 of the *Code of Virginia* outlines the powers and duties of the Commission on Youth and directs it to "[u]ndertake studies and to gather information and data . . . and to formulate and report its recommendations to the General Assembly and the Governor."

II. Members Appointed to Serve

The Commission on Youth is a standing legislative commission of the Virginia General Assembly. It is comprised of twelve members: six Delegates, three Senators and three citizens appointed by the Governor.

Members of the Virginia Commission on Youth are:

Senator Yvonne B. Miller, Norfolk, Chair

Senator Harry B. Blevins, Chesapeake

Senator R. Edward Houck, Spotsylvania

Delegate Mamyé E. BaCote, Newport News

Delegate Robert H. Brink, Arlington

Delegate Mark L. Cole, Fredericksburg

Delegate Christopher K. Peace, Mechanicsville, Vice Chair

Delegate Beverly J. Sherwood, Winchester

Delegate Anne B. Crockett-Stark, Wytheville

The Honorable Gary L. Close, Esq., Culpeper

Mr. Anthony Dale, Alexandria

Ms. Joy Myers, Arlington

III. Executive Summary

Kinship care complements federal requirements of providing children with stability and permanency. Children in kinship care experience less trauma, have positive perceptions of their placements and have fewer behavioral problems than children placed in foster care. Virginia policy requires that family members be considered first when out-of-home placements are sought for children. However, in 2006, according to the Child Welfare League's State Fact Sheet, Virginia ranked last in the U.S. in the use of kinship care.

At the Commission's meeting on April 21, 2010, the Commission adopted a study plan to assess barriers to kinship care placements in Virginia. The purpose of the study was to examine challenges which impact kinship care, including policies, training and funding. Commission staff also was directed to review Virginia's barrier crime laws and to compare such laws to federal requirements in order to determine their impact on kinship care placements.

In conducting the study, Commission staff established an Advisory Group consisting of stakeholders, including the Virginia Departments of Aging, Criminal Justice Services, Education, Juvenile Justice, and Social Services, local Departments of Social Services, child and family advocacy groups, faith groups, and parent organizations, as well as members of the Commission on Youth.

At its November 15, 2010 meeting, the Commission on Youth approved the following recommendations:

Recommendation 1

Support the continued implementation of Virginia's Children's Services System Transformation.

Recommendation 2

Request the Department of Social Services clarify policies and provide training to ensure kinship care, both formal and informal kinship care, is identified as a goal for permanency.

Recommendation 3

Request the Virginia Department for the Aging Kinship Care Task Force develop a plan for the creation of a Kinship Care Navigator. This effort will include local departments of social services, local health departments, Virginia's Area Agencies on Aging (AAAs), community services boards (CSBs), local school divisions, and community action agencies and will address dissemination of information to relative caregivers regarding available social service programs and benefits (e.g., TANF, FAMIS, Medicaid, WIC, housing assistance, and the Comprehensive Services Act). Potential public and/or private funding sources will be included in this plan. The Department will report on the status of this plan to the Commission on Youth prior to the 2012 General Assembly Session.

Recommendation 4

Request the Department of Social Services develop a plan for using Virginia 2-1-1 to serve as a resource tool for juveniles released into the community in assisting them transition back to the community.

Recommendation 5

Request the Department of Social Services move forward with implementing the Custody Assistance Program (formerly Subsidized Custody to a Relative Program). Request the Department of Social Services report on the costs of providing formal kinship care as compared to therapeutic foster care, residential treatment, and even the cost of incarceration. The benefits and positive outcomes experienced by children who are placed with family members will also be included in this report. The Department shall report these findings to the Commission on Youth prior to the 2012 General Assembly Session.

Recommendation 6

Request the Department of Social Services update the Commission on Youth on the Kinship Care Diversion Project, which will help identify the number of children diverted from foster care and placed with kinship providers. This update will include outcome data and cost savings of such diversion. This update will take place prior to the 2012 General Assembly Session.

Recommendation 7

Request the Crime Commission evaluate Virginia's barrier crime statutes in the *Code of Virginia* and offer recommendations which will make provisions consistent while reducing existing gaps in these statutes. The Crime Commission will update the Commission on Youth on the findings from this study prior to the 2012 General Assembly Session.

Recommendation 8

Request the Department of Social Services, with assistance from the Office of the Attorney General, to annually review and update the listing of barrier crimes impacting the licensure of foster or adoptive parents approved by child-placing agencies and family day homes approved by family day systems. The barrier crime listing will be distributed annually to all local departments of social services.

Recommendation 9

The Commission on Youth will convene an advisory group of representatives from impacted agencies and stakeholder organizations to study ways to clarify the school enrollment process for informal kinship caregivers. Legal guardianship will also be addressed in this review. The advisory group will formulate recommendations to be shared with the Commission on Youth prior to the 2012 General Assembly Session.

Recommendation 10

Request the Virginia Department of Education to issue a Superintendent's Memorandum outlining the Attorney Generals Opinions which state local school divisions may not refuse to provide free education to *bona fide* residents and that enrollment determinations be made based on all pertinent facts.

Recommendation 11

Request the Virginia Association of Elementary School Principals, the Virginia Association of Secondary School Principals, the Virginia School Board Association, and the Virginia Association of School Superintendents include information from the Attorney General's Opinions clarifying local school divisions may not refuse to provide free education to *bona fide* residents and enrollment determinations be made based on all pertinent facts at their annual conferences and trainings.

Recommendation 12

Support the Virginia Department of Social Services in their efforts to provide training to local departments of social services on family engagement, technical assistance on the requirements of diligent family search, and strategies for rural localities.

Recommendation 13

Support the Virginia Department of Social Services' efforts to obtain funding for a family locator search engine, e.g., Accurint®, which will assist local departments of social services in their efforts to perform due diligence searches and identify extended family to help children maintain connections with their families.

IV. Study Goals and Objectives

At the Commission on Youth meeting on April 21, 2010, Commission on Youth staff was directed to assess barriers to kinship care placements in Virginia, as well as challenges which

impact kinship care, including policies, training and funding. Virginia's barrier crime laws were also reviewed and compared to federal requirements to determine how they impact kinship care placements. Findings and recommendations were to be reported to the Commission prior to the 2011 General Assembly Session.

A. ISSUES

The Virginia Children's Services System Transformation's January 2010 presentation "Addressing Kinship Care in Virginia" suggested the following issues:

- As of April 2010, there were 6,329 children in foster care in Virginia. Of these, 279 children were placed in a foster relative home/kinship care arrangement.
- Kinship care complements federal requirements of providing children with stability and permanency. Children in kinship care experience less trauma, have positive perceptions of their placements and have fewer behavioral problems.
- Kinship foster caregivers must meet the same approval standards as non-related foster parents. Foster care and kinship care providers must have background checks conducted through national crime information databases and state child abuse registries. While some crimes warrant mandatory exclusion under federal law, states may set standards for other convictions.
- Virginia policy requires that family members be considered first when out-of-home placements are sought for children. However, Virginia ranks last in the nation in the use of kinship care. In 2009, only 4.6% of Virginia foster care placements were in a kinship care setting. The national average is 24%.
- There are challenges to utilizing kinship care in Virginia. Training requirements, licensing requirements and funding are a few of the identified impediments.
- A comparison of Virginia's barrier crime statutes to federal standards will also be helpful to ascertain whether modifications to Virginia's statutes will encourage more kinship foster care placements, while protecting children in care.

B. STUDY ACTIVITIES

At the Commission's meeting on April 21, 2010, the Commission approved study plan which included the following activities:

- Literature review
 - Review role and benefits of kinship care
 - Review national literature on best practices in foster care/kinship care, including research from the Child Welfare League of America and U.S. Department of Health and Human Services
 - Identify best-practices in kinship care
- Review federal legislation/statutes
 - *Fostering Connections to Success and Increasing Adoptions Act* (P.L. 110-351)
 - Titles IV-B and IV-E of the Social Security Act
 - Social Services Block Grant (SSBG)
 - Temporary Assistance for Needy Families (TANF) block grant
 - *The Adoption and Safe Families Acts of 1997*
 - *The Adam Walsh Child Protection and Safety Act of 2006*
 - *The Child Abuse Prevention and Treatment Act (CAPTA)*

- Convene Work Group to assist in study effort.
 - Invite representatives from the impacted groups including:

Secretary of Health and Human Resources Virginia Department of Social Services Local Departments of Social Services Virginia League of Social Service Executives Virginia Juvenile and Domestic Relations Judiciary Department of Behavioral Health and Developmental Services Parent Representatives Office of Comprehensive Services State Executive Council Department of Criminal Justice Services	Virginia Department of Education Virginia Department of Aging Virginia's Court Improvement Program – Supreme Court of Virginia Department of Juvenile Justice Virginia Association of Counties/Virginia Municipal League Faith-Based Community Private child placing agencies Advocacy Organizations CASA Representatives Virginia Association of Community Services Boards
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- Review Virginia laws and regulations
 - Barrier crime statutes for foster and adoptive homes
 - Statutorily-created exclusions to Virginia's barrier crime laws
- Analyze Virginia practices and data
 - Review kinship care arrangements in Virginia, both formal and informal
 - Review Virginia's data on utilization of kinship care by locality
 - Identify previous Virginia analyses on kinship care
 - Coordinate with Virginia's Children's Services System Transformation
 - Receive presentations on current efforts encouraging kinship care
 - Review state and local Department of Social Services (DSS) policies and practices
 - Survey local DSSs for practices and suggested changes
 - Review Virginia's study of subsidized custody
 - Monitor Virginia's plan to increase the permanent placement of children with families and reduce the number of children in foster care by 25% by 2020 (HB 718, 2010, Peace)
- Summarize other states' barrier crime statutes
 - Collect and analyze other states' kinship care/foster care laws
 - Compare barrier crime laws in identified states
 - Assess whether other states' statutes are more or less restrictive than federal standards
 - Assess how variation in laws impacts safety and placement of children in kinship care
- Assess constituents' perceptions
 - Interview local DSS directors, consumers and relatives providing kinship care
 - Interview family members and other caregivers
 - Identify and coordinate with kinship care support groups (AARP, churches, other)

- Develop recommendations
 - Synthesize findings from surveys, other states and constituent groups
 - Develop recommendations for improvement
 - Solicit feedback to recommendations from constituents and DSS
- Solicit feedback to recommendations
- Refine findings and recommendations
- Present findings and recommendations to the Commission on Youth
- Prepare final report

V. Methodology

The findings of the study are based on several distinct research activities.

A. RESEARCH AND ANALYSIS

Commission on Youth staff reviewed data, reports, statutes and codes in order to fully research kinship foster care in Virginia. Specifically, staff analyzed sections of the *Code of Virginia* defining and addressing barrier crimes for potential kinship caregivers.¹ Attorney General Advisory Opinions were read and discussed with regard to public school options for children living with kinship caregivers.² Federal legislative provisions dealing with kinship care issues were reviewed. Staff further analyzed data and reports presented by the Virginia Department of Social Services and Virginia Department of Aging, along with comparable reports from a national perspective. Finally, research collected by other states and independent organizations helped present a broader understanding of kinship foster care generally, and allowed for state-by-state policy comparisons.

B. ADVISORY GROUP

The Commission established an Advisory Group in order to help identify, refine and prioritize issues of the study. Members of the Advisory Group met to discuss specific barriers to kinship and foster care in Virginia, articulate findings, and propose recommendations.

The Advisory Group established by the Commission included representatives from the following agencies and organizations.

- Catholic Charities of Hampton Roads
- Central Virginia Community Services
- FACES of Virginia
- Fairfax Court Appointed Special Advocates (CASA)
- Mountain Empire Older Citizens, Inc.
- New Kent Department of Social Services
- Norfolk Department of Human Services
- Office of Comprehensive Services
- Office of the Secretary of Health and Human Services

¹ Va. Code § 63.2-1719.

² 2007 WL 1958946 (Va. A.G.); 1987 WL 271800 (Va. A.G).

- Prevent Child Abuse Hampton Roads
- Supreme Court of Virginia
- The Capital City Program/Richmond Alternative School
- United Methodist Family Services
- Virginia Association of Counties
- Virginia Department for the Aging
- Virginia Department of Behavioral Health and Developmental Services
- Virginia Department of Criminal Justice Services
- Virginia Department of Education
- Virginia Department of Juvenile Justice
- Virginia Department of Social Services
- Local Departments of Social Services
- Virginia Municipal League
- Virginia Poverty Law Center
- Voices for Virginia's Children

A complete list of the Advisory Group membership is provided as Appendix A. The Advisory Group met four times in 2010: July 7, September 20, October 4, and November 3.

C. PRESENTATIONS AND GUEST SPEAKERS

The Advisory Group heard presentations from a number of guest speakers.

At the Commission on Youth meeting on June 8, 2010, Paul McWhinney from the Division of Family Services, Virginia Department of Social Services gave a general review of kinship care in Virginia.

At the Advisory Group's July 7 meeting, Betty Jo Zarris of the Virginia Department of Social Services and Ellen M. Nau of the Virginia Department of Aging presented overviews of kinship care activities. On October 3, Victor Evans, CSA Coordinator for Prince William County, discussed that locality's Kinship Care Initiative. At its final meeting on November 3, the Advisory Group heard from the following speakers: Courtney Stewart, Albemarle County's International and English for Speakers of Other Languages (ESOL) Coordinator, on Kinship Care and Enrollment in Schools; Hampton CSA's Jessica McClary, Utilization Review Coordinator on Family Engagement and Diligent Search, and Denise Gallup, speaking to Working with Kinship Families; and Karin T. Addison, Special Advisor to the Governor on Children's Services, who provided updates on Children's Services initiatives.

Jennifer Miller, national kinship care specialist, was guest speaker at both the Commission on Youth and the Kinship Care Advisory Group meetings on September 20, 2010. A partner at ChildFocus, Massachusetts and consultant for the Annie E. Casey Foundation, as well as a social worker and child advocate with more than 20 years' experience, Ms. Miller spoke to the Commission on innovative child welfare practices and providers members with a national overview of what other states were doing, as well as best practices offering alternatives to foster care placement. Her presentation is provided as Appendix B. In a separate meeting, Ms. Miller engaged Advisory Group members in an informal discussion of the topic and kinship care issues being addressed in Virginia.

VI. Study Issues

A major focus of this study was to develop a clearer understanding of barriers to kinship care not only in Virginia, but also on the national level. This section summarizes the results of the research and analysis conducted by Commission staff.

A. DEFINING KINSHIP CARE

Kinship care is defined as the “full-time care, nurturing, and protection of children by relatives.”³ The Child Welfare League Association further defines kinship as “the full time care, nurturing and protection of children by relatives, members of their tribes or clans, godparents, stepparents, or any adult who has a kinship bond with a child.”⁴

The definition of “relatives”, however, varies from program to program. For example, the Virginia Department of Social Services (VDSS) narrowed the definition of “relative” for the custody assistance program to mean only those related by blood, marriage, or adoption. The need for kinship care arises in a number of different fashions, and is frequently used as a diversion from foster care. Yet, regardless of the way in which kinship care arises, different kinds of kin relationships.

At the broadest level, kinship care is divided between formal care and informal care. As the name implies, informal kinship care refers to such caregiving arrangements that occur without the involvement of a child welfare agency.⁵ On the other hand, “formal” kinship care means that family members, or kin, act as foster parents for children in state custody.⁶ Yet, as depicted in Chart 1, differentiating between types of kinship care is often more complex.

At the most informal level of kinship care, families arrange for the care of their children with another family member. Thus, the state does not play any role in the arrangement. Another relatively informal type of kinship care, with only brief state involvement, is when a child is placed with kin as a result of a child protective services (CPS) investigation. Typically, the arrangement is temporary and non-custodial and can terminate if it is established that the problem which prompted the investigation has been solved. A more formal arrangement is that where a family member actually takes custody of the child. When the kinship care provider has legal custody of a child, they have all of the rights and responsibilities of a parent as specified in the order from the court.⁷ Finally, at the most formal end of the spectrum, the child’s kinship care arrangement becomes permanent, typically through adoption. This arrangement benefits children because they now are entitled to all the benefits and rights of a biological child, including financial assistance, social

³ Va. Code § 63.2-100 (2010).

⁴ *Kinship Care: Fact Sheet*. Child Welfare League of America (CWLA). [Online]. Available: <http://www.cwla.org/programs/kinship/factsheet.htm>. [October 2007].

⁵ Green, Rob. (2003). *Kinship Care: Making the Most of a Valuable Resource*. Urban Institute Press. [Online]. Available: <http://www.urban.org/pubs/KinshipCare/chapter1.html>. [June 2010].

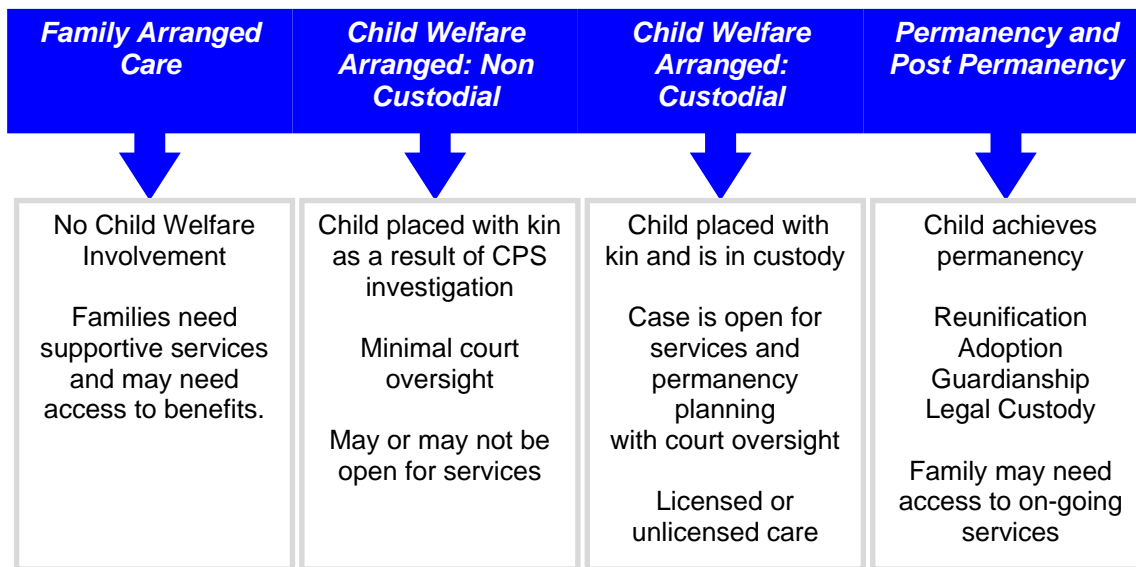
⁶ Ibid.

⁷ Virginia Department of Social Services. *To the Child Kinship Care Means “Home”: Virginia’s Legal Options for a Relative When a Child Cannot Live With His Parents*. [Online]. Available: http://www.dss.virginia.gov/files/division/dfs/fc/kinship_care/brochures_publications/B032-01-0200-00-eng.pdf. [June 2010].

security, insurance or pension benefits.⁸ However, this situation occurs only upon a parent's voluntary petition to a court or through a local department of social services (LDSS) involuntarily terminating parental rights.⁹

Chart 1

Kinship Care Continuum



Source: Jennifer Miller, ChildFocus, *Kinship Care in the U.S: Policy Developments and Best Practices* [Presentation] (2010).

Similarly, in Virginia, there are a variety of kinship care options available to meet the needs of children in differing situations. First of all, pursuant to a formal order of the Juvenile and Domestic Relations District Court (JDR), legal custody of a child may be given to either the kinship care provider or the local department of social services.¹⁰ If the kinship caregiver is awarded legal custody, they assume all the rights and responsibilities from a parent, including “registering the child for school, obtaining medical care...and accessing certain financial assistance.”¹¹ On the other hand, when the Virginia Department of Social Services (VDSS) is awarded legal custody through a court order, the Department may place the child either in a kinship home, for a long period of time, or in a foster home, with a 12- to 22-month period allowed for the parent to correct the problem(s).¹² However, if the JDR court does not formally grant legal custody through a court order, there are still other options. One such option involves adoption of the child by a relative, whereby the relative becomes entitled to all the rights of the biological parent, and the child is potentially qualified to receive more

⁸ Ibid.

⁹ Ibid.

¹⁰ Virginia Department of Social Services. *To the Child Kinship Care Means “Home”: Virginia’s Legal Options for a Relative When a Child Cannot Live With His Parents*. [Online]. Available: http://www.dss.virginia.gov/files/division/dfs/fc/kinship_care/brochures_publications/B032-01-0200-00-eng.pdf. [June 2010].

¹¹ Ibid.

¹² Ibid.

benefits and/or assistance.¹³ Adoption can be either voluntary—though the initiative of the biological parents—or involuntary, though termination of the parental rights by VDSS.¹⁴ Finally, parents can choose to place their child with a relative for temporary or permanent care.¹⁵

B. CHALLENGES TO KINSHIP CARE

As outlined by the Virginia Children's Services System Transformation, there are a number of challenges facing kinship care families.¹⁶ First, there are frequently problems accessing accurate information regarding kinship care and available services. Often, without specific knowledge on the subject, kinship care families struggle to understand all their legal options, cannot access legal services or advice, and face difficulties enrolling children in schools or accessing medical care. Furthermore, there can also be health issues, for both the children and the caregiver. If the caregiver is a grandparent or another older relative, this can be particularly challenging.

Finally, there exist many corrosive attitudes about kinship care. According to the Virginia Department of Social Services, these take the form of feelings that “the apple doesn't fall far from the tree,” “families should take care of their own kin,” and/or “families do not want government involvement.”¹⁷ These negative perceptions alienate many potential kinship caregivers.

In addition to the pervasive challenges faced by kinship families, there are further challenges to be encountered within the child welfare system. As outlined by the Virginia Children's Services System Transformation, funding is a key problem.¹⁸ Additionally, it is difficult for the child welfare system to meet the full continuum of kinship care family needs. With so many types of kinship care, some informal arrangements are completely beyond the scope of any agency, and thus data collection and record keeping are next to impossible. Similarly, there are training and licensing requirements that do not address the unique needs of kinship caregivers. Although kinship care providers typically get lumped in the same category as foster care providers, the uniqueness of the relationships between kinship family and child can present challenging situations that might require specialized training.

Finally, providing help, while simultaneously preventing reentry to the system, presents yet another challenge. Although kinship care is typically used to divert children from foster care, it can cut children off from benefits and care that those children would otherwise be qualified to receive.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Virginia Children's Services System Transformation. January 2010. *Addressing Kinship Care in Virginia—Stock Presentation*. [Online]. Available: <http://vafamilyconnections.com/documents/Stock%20Presentation.pdf>. [June 2010].

¹⁷ Virginia Department of Social Services. June 8, 2010. *VDSS Kinship Care Presentation*. [Online]. Available: http://services.dlas.virginia.gov/User_db/frmView.aspx?ViewId=1049. [August 2011].

¹⁸ Ibid.

C. KINSHIP CARE IN VIRGINIA

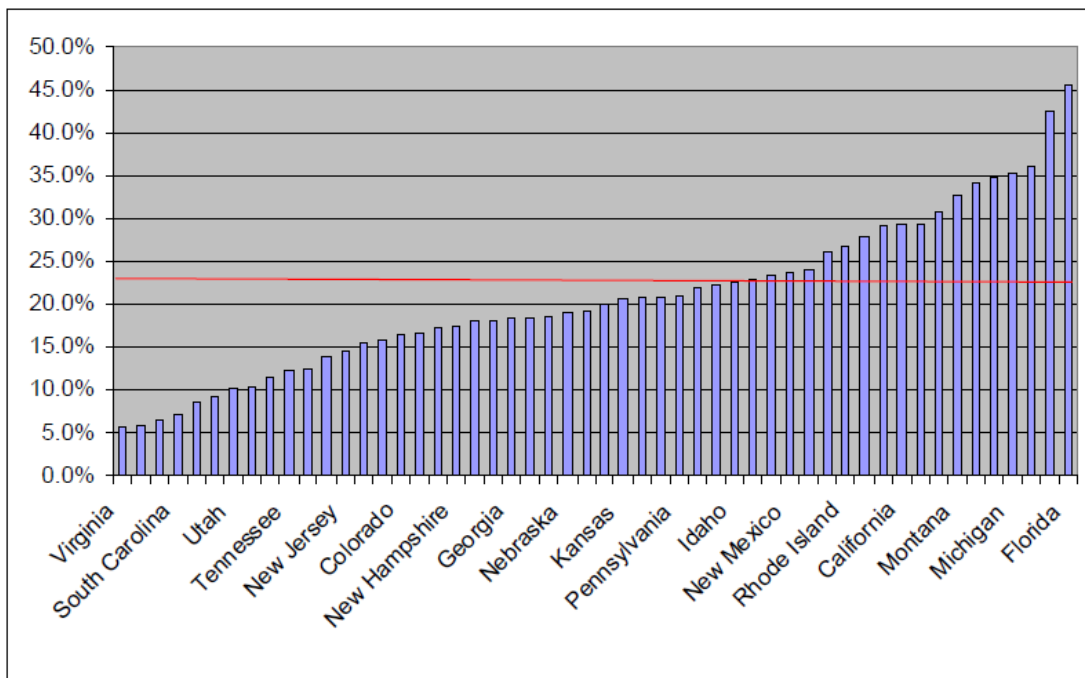
The challenges described in preceding paragraphs present themselves upon closer examination of individual locality and state kinship care services. The following paragraphs detail the research which shows how Virginia is addressing problems surrounding kinship care.

Statistics

As stated earlier, Virginia ranks last in the nation regarding use of kinship care. Chart 2 depicts the percentage of children in out-of-home care (living with relatives) by state. Virginia has the lowest percentage. Of the 7,843 children in out-of-home care in 2006 in Virginia, 5.7% were living with relatives while in care.¹⁹ Further, 50% of local departments of social services (LDSS) have no kinship placements. Of the remaining 50%, 25% have more than 8.5% placement and 25 have between 1% and 8.5% placement.²⁰

Chart 2

State by State Comparison of the Percentage of Children in Out of Home Care Living with Relatives 2006



Source: Child Welfare League State Fact Sheets (2009).

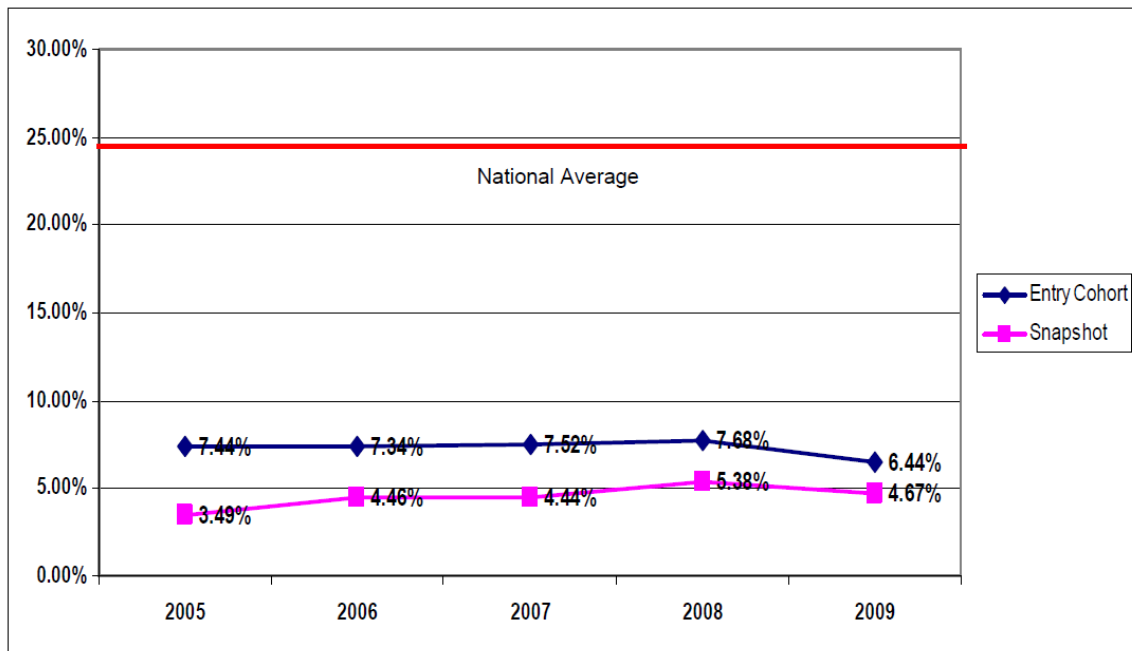
¹⁹ Child Welfare League. *State Fact Sheets: Virginia's Children 2009*. 2009. [Online]. Available: <http://www.cwla.org/advocacy/statefactsheets/statefactsheets09.htm>. [June 2010].

²⁰ Virginia Department of Social Services. *To the Child Kinship Care Means "Home": Virginia's Legal Options for a Relative When a Child Cannot Live With His Parents*. [Online]. Available: http://www.dss.virginia.gov/files/division/dfs/fc/kinship_care/brochures_publications/B032-01-0200-00-eng.pdf. [June 2010].

In 2008, Virginia placed 5.5% of children in out-of-home care with relatives, compared to the national average of 15.2%.²¹ In 2010, Virginia places only 4.6% of children in relative foster families, compared to that year's national average of 24%.²² This comparison is depicted in Chart 3.

Chart 3

Percentage of Kinship Placements in Virginia Compared to the National Average



Source: Virginia Children's Services System Transformation. (2010).

Grandparents play a large role in Virginia kinship care. Slightly over 6% of Virginia's children live in grandparent-headed households.²³ In 2007, approximately 61,333 Virginia grandparents had primary responsibility caring for their grandchildren.²⁴ This figure compares to the children living in households headed by other relatives, which makes up on 1.8% of all children.²⁵ In fact, 59,464 grandparents report that they are responsible for their grandchildren living with them.²⁶

²¹ Casey Family Programs, State Child Welfare Policy Database. *Virginia Kinship Care Policies*. 2008. [Online]. Available: <http://www.childwelfarepolicy.org/maps/state?id=46>. [August 2010].

²² Virginia Children's Services System Transformation. January 2010. *Addressing Kinship Care in Virginia—Stock Presentation*. [Online]. Available: <http://vafamilyconnections.com/documents/Stock%20Presentation.pdf>. [June 2010].

²³ AARP Foundation, GrandFact Sheets. *Virginia, September 2008*. [Online]. Available: <http://www.grandfactsheets.org/doc/Virginia08%20New%20Template.pdf>. [June 2010].

²⁴ Ibid.

²⁵ Ibid.

²⁶ Ibid.

According to data on race and ethnicity, 53.5% of all the kinship care children in Virginia in 2006 were white, 35.6% were African American, 5.6% were Latino, and 5.3% were other races.²⁷ Forty percent of kinship-caregiving grandparents were African American; 3%, Latino; 3%, Asian; and 52%, white.²⁸ Sixty percent of grandparents cared for the children without the presence of a parent, and 15% were living in poverty.²⁹

Finally, of the 3,044 children exiting out-of-home care in Virginia in 2006, only 28% were reunited with their parents or other family members.³⁰

Barrier Crime Laws

The figures for Virginia's kinship care placement might be notably low due to the state's stringent barrier crime laws. A barrier crime, according to the *Code of Virginia*, is a crime set forth in statute that explicitly disqualifies an applicant from foster or kinship care giving.³¹ Unlike federal standards, as outlined in Title IV-E of the *Social Security Act* and the *Child Abuse Prevention and Treatment Act* (CAPTA), Virginia bans applicants for life for all crimes listed in statute. As such, persons considering kinship caregiving in Virginia cannot have convictions on their record for offenses as minor as drug possession. This "ban for life" is a much higher standard than the national requirement of only a five year ban.³² A listing of Virginia's barrier crimes is provided in Appendix C.

To determine evidence of a barrier crime, a background check is required for all potential kinship caregivers. According to Sections 63.2-1721 and 63.2-901.1 of the *Code of Virginia*, foster parents, kinship parents, and any adult residing in the home shall undergo background checks before approval. Such checks include a search of the adult's criminal history record, in order to determine whether any barrier crimes might disqualify the applicant, as well as a search of the central registry to any founded complaint of child abuse or neglect.

Legislation

In terms of kinship care statutes specific to Virginia, the Commonwealth largely defers to federal legislation. Aside from the *Code of Virginia* statutes which mandate barrier crimes and background checks, the most important pieces of legislation for Virginia kinship care are the *Fostering Connections to Success and Increasing Adoptions Act*, Titles IV-B and IV-E of the *Social Security Act*, *Temporary Assistance for Needy Families* (TANF), *The Adoption of Safe Families Acts*, *The Adam Walsh Child Protection Safety Act* and the *Child Abuse Prevention and Treatment Act*.

A more detailed analysis and description of this legislation is provided in the paragraphs which follow.

²⁷ Ibid.

²⁸ Ibid.

²⁹ Ibid.

³⁰ Ibid.

³¹ Va. Code § 63.2-1721 (2010).

³² Ibid.

D. KINSHIP CARE NATIONALLY

Problems with using relatives to complement foster care and facilitate permanency are not unique to Virginia. Nationally, there has been an initiative to increase the use of kinship care and to eliminate problems and challenges facing the system.

Statistics

Despite the fact that Virginia ranks last in the U.S. for use of kinship care, the nation as a whole struggles to optimize kinship care. In 2007, 2,514,256 grandparents nationwide had primary responsibility for caring for their grandchildren.³³ Of the 510,885 children in out-of-home care in 2006, 23.9% were living with relatives while in care.³⁴ Of all children in kinship care in 2006, 47.7% were white, 26.3% were African American, 14.1% were Latino, 2.2% Native American, and 10% were of other races.³⁵

TANF provides financial support to qualifying kinship care families. In an effort to better understand the national usage of kinship care, the Urban Institute conducted a study of all available programs for kinship families, besides the nationally mandated TANF programs.³⁶ The idea behind the study was to ultimately gauge how prioritized kinship care stands from state to state. By evaluating those programs not nationally mandated, or tied to federal funding (all besides TANF programs), one can see how many self-initiated kinship care programs exist by state. A more detailed discussion of the legislation is provided in the paragraphs which follow. Chart 4 depicts the Urban Institute's findings.

Commenting on the study findings in *On Their Own Terms: Supporting Kinship Care Outside of TANF and Foster Care*, the Institute noted:

In all, 167 programs serving kinship care families were identified, and researchers contacted 107 programs which were thought to fit the definition of alternative kinship care. Identified programs were asked to provide brochures, authorizing legislation, and other publicly available information about current and planned activities. The information provided showed that 57 of these programs served families referred by either TANF or child welfare and could be considered alternative programs. Of these 57, 34 are subsidized guardianship programs, programs that provide on-going financial support to kin who take permanent legal custody of a related child who has been abused or neglected. Such programs are alternative in that they provide an option only to kin that is different from traditional foster care or adoption assistance. Program administrators offered some basic information about all 57 alternative kinship programs.³⁷

While the numbers are marginal, the study proved at least one thing: there is a proliferation of such programs recently.³⁸ Thus, it is clear that trends in child welfare have pushed kinship care and its benefits to national attention, meaning that improvements in the current statistics will likely follow.

³³ The Nation's Children, 2009. Recommendations for the New Administration and 111th Congress.

³⁴ Ibid.

³⁵ Ibid.

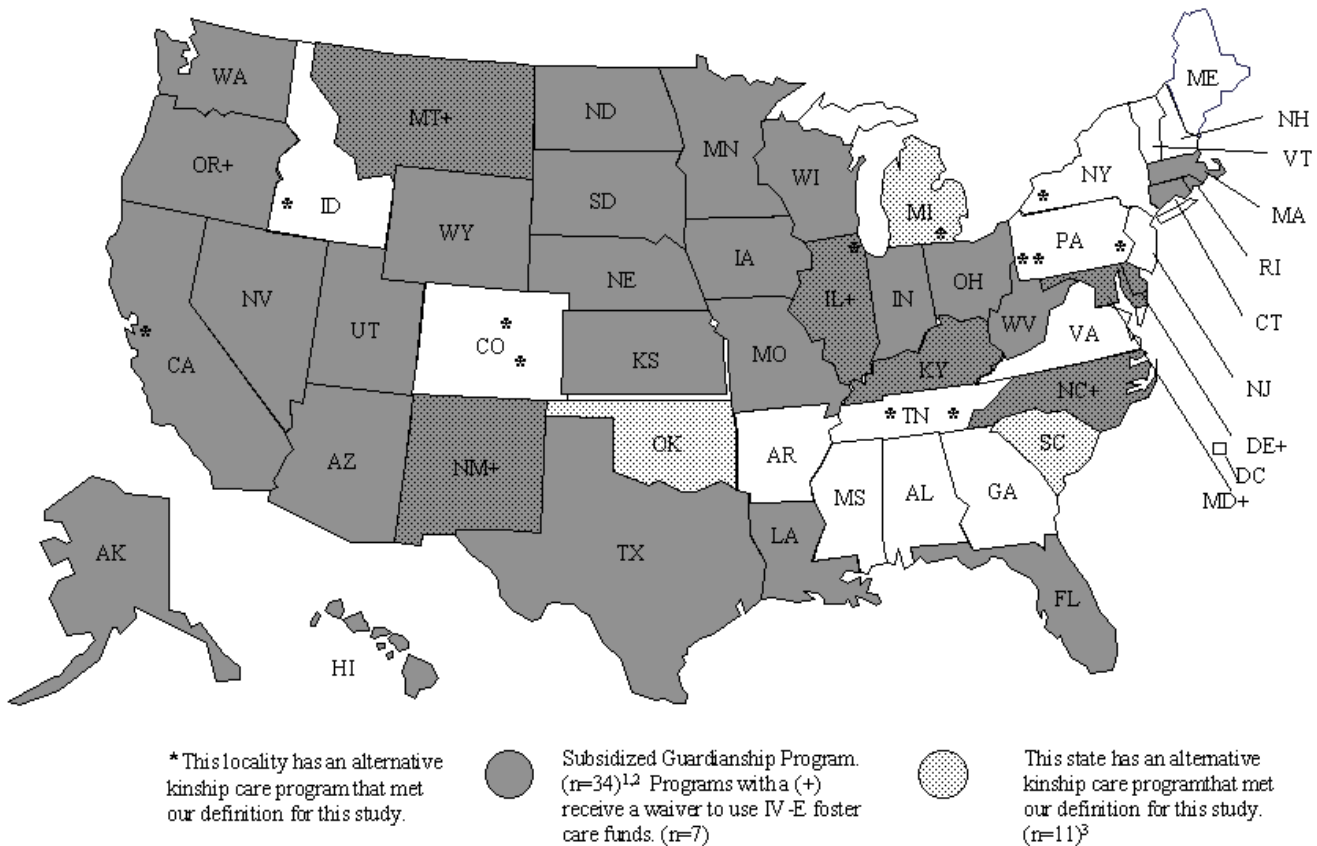
³⁶ *On Their Own Terms: Supporting Kinship Care Outside of TANF and Foster Care*. The Urban Institute. Prepared for Assistant Secretary for Planning and Evaluation & U.S. Department of Health and Human Services. [Online]. Available: <http://aspe.hhs.gov/HSP/kinicare01/chapt1.htm> (2001).

³⁷ Ibid.

³⁸ Ibid.

Chart 4

Identified Alternative Kinship Care Programs



¹ Missouri has two subsidized guardianship programs, one that serves all kin and one that targets grandparents.

² In Florida and Kentucky, relatives who take physical custody of a child under child protective services supervision are eligible for a payment (equal to the subsidized guardianship payment) instead of foster care. When they become guardians, that payment continues.

³ Illinois has three alternative kinship care programs, Michigan and South Carolina each have two.

Source: *On Their Own Terms: Supporting Kinship Care Outside of TANF and Foster Care*. The Urban Institute. Prepared for Assistant Secretary for Planning and Evaluation & U.S. Department of Health and Human Services. [Online]. Available: <http://aspe.hhs.gov/HSP/kinicare01/chapt1.htm>. (2001).

Barrier Crimes

As previously noted, there exist federal guidelines that serve as the minimum standard for states in determining their own barrier crime statutes. Outlined in Title IV-E of the *Social Security Act*, *The Child Abuse Prevention and Treatment Act (CAPTA)*, *The Adam Walsh Child Protection and Safety Act of 2006* and the *Adoption and Safe Families Act*, approval of foster or kinship care parents requires that the applicant never have been convicted of “felony child abuse or neglect; spousal abuse; a crime against children (including child pornography); or a crime involving violence, including rape, sexual assault, or homicide but not including

other types of physical assault or battery.”³⁹ Further, the applicant must not have any felony convictions for “physical assault, battery, or a drug related offense *within the past 5 years*.”⁴⁰

However, because these serve as the minimum guidelines, states may vary in how much stricter their own barrier crimes, also called disqualifying crimes, are than the national regulations. Twenty-two states follow the federal guidelines exactly, while the remaining 31 differ to some degree.⁴¹ As alluded to, Virginia falls in the latter category, with some of the strictest barrier crimes in the nation. Appendix D provides a comparison of state practices regarding barrier crimes.

Legislation

The major federal legislation which impacts kinship is described in the paragraphs which follow.

Fostering Connections to Success and Increasing Adoptions Act

“The [Act] (P.L. 110-351) will help hundreds of thousands of children and youth in foster care by promoting permanent families for them through relative guardianship and adoption and improving education and health care.”⁴² First and foremost, the law requires that notice to be given to relatives whenever a child is removed from parental care, in order to increase the number of opportunities for relatives to step in and divert the child from foster care.⁴³ Most importantly, however, the Act provides federal assistance to states in order to subsidize relative guardianship, generally for children up to age 18, but potentially to children age 21.⁴⁴ Finally, the Act provides licensing standards for kin and creates programs that help link relatives to children eligible for kinship care.

Child Abuse Prevention Act (CAPTA)

CAPTA defines child abuse and neglect through minimum standards in order to prevent persons who have engaged in neglect, physical abuse, sexual abuse, or emotional abuse of minors from ever taking on the responsibility of being a kinship caregiver. As the Act states, neglect “at a minimum, [is] any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse or exploitation, or an act or failure to act which presents an imminent risk of serious harm.”⁴⁵ The Act also points the many forms which neglect can take: physical, medical, educational, and/or emotional.

³⁹ Child Welfare Information Gateway. *Criminal Background Checks for Prospective Foster and Adoptive Parents: Summary of State Laws*. August, 2009. [Online]. Available: http://www.childwelfare.gov/systemwide/laws_policies/statutes/background.pdf.

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Center for Law and Social Policy (CLASP). *Fostering Connections to Success and Increasing Adoptions Act Will Improve Outcomes for Children and Youth in Foster Care*. Sept. 16, 2008. [Online]. Available: <http://www.clasp.org/admin/site/publications/files/FINAL-FCSAIAAct1-pager.pdf>.

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ *Child Abuse Prevention Act (CAPTA)*, 42 U.S.C. 510 (2003).

Adoption and Safe Families Act

The goal of the Act, which was signed into law in 1997, is to improve the safety of children, promote adoption and other permanent homes for children, and support families.⁴⁶ Specifically in regards to kinship foster care, the Act requires criminal background checks for prospective foster care and adoption parents, and takes steps to incentivize permanent care of children.⁴⁷

Adam Walsh Child Protection Safety Act

While the *Adam Walsh Child Protection Safety Act* might be best known for creation of the national sex offender registry, the Act's efforts in kinship care are equally important. By enacting a number of titles aimed at sex offenders, the Act helps prevent sex offenders from becoming kinship caregivers.⁴⁸

Temporary Assistance for Needy Families (TANF)

TANF provides assistance and work opportunities to needy families through programs under Titles IV-A and XVI of the Social Security Act.⁴⁹ Enacted in 1997, then reauthorized in 2006, TANF provides monthly support payments to families for their basic needs.⁵⁰ Distributed through state agencies, families receive payments based on eligibility.⁵¹

Related to eligibility requirements for kinship foster care, a child must be "living with a parent or relative."⁵² In this way, the Act incentivizes kinship care, rather than publicly-funded caregiving.

VII. Findings and Recommendations

At its November 15, 2010 meeting, the Commission on Youth received study findings and approved the recommendations for this study.

Findings

Attitudes about kinship care are not always positive.

Kinship care, as set forth in § 63.2-100 of the Code of Virginia, is defined as the full-time care, nurturing, and protection of a child by relatives. The Virginia Department of Social Services' policy defines kinship care as the full-time care, nurturing, and protection of children by relatives, members of their tribes or clans, godparents, stepparents, or any adult who has a kinship bond with a child. Policymakers, at both the state and federal level, are increasingly looking to kinship care as a placement option for children in need of foster care. Separating a child from their parents, even abusive or neglectful ones, can be very traumatic for the child. Kinship care reduces this trauma by placing the child with adults whom he or she already knows. Children in kinship care achieve permanency at higher rates, experience better placement stability, and have shorter lengths of stay. Visitation with birth parents and siblings is more frequent and placement with siblings is more likely.

⁴⁶ Adoption and Safe Families Act of 1997 (PL 105-89) (1997).

⁴⁷ Ibid.

⁴⁸ National Alliance to End Sexual Violence (NAESV), *Legislative Analysis: The Adam Walsh Child Protection and Safety Act of 2006*.

⁴⁹ U.S. Department of Health and Human Services, Administration for Children & Families, *About TANF*. [Online]. Available: www.acf.hhs.gov. [June 2010].

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Virginia Department of Social Services (DSS). *Temporary Assistance for Needy Families, About the Program*. [Online]. Available: www.dss.virginia.gov. [June 2010].

Despite the optimistic reasoning behind kinship care, negative attitudes still persist. Kinship care advocates have fought for years to overcome the negative perception held by child welfare workers that "the apple does not fall far from the tree" due to the perception that parents who are abusive may have been abused themselves. However, recent studies indicate that most children in kinship care are placed there because of parental neglect rather than abuse. Another persistent negative attitude is the belief that "families should take care of their own kin." This traditional approach to family functioning regards kinship care as an unwarranted reliance upon parties outside the immediate family. Individuals who subscribe to this sentiment feel that, by having children, parents implicitly take on the responsibility to care for their children no matter the circumstance. Thus, they are critical of paying relatives to care for children. The view that "families do not want government involvement" also pervades otherwise positive attitudes on kinship care. Those who subscribe to this notion believe that the government should not be interfering with family structures or arrangements. Families, according to some, should be beyond the reach of governmental interference and thus any government involvement in kinship care is unwelcome intrusion into private matters.

Finally, it is important to note that there are two forms of kinship care arrangements. Kinship care may refer to relative foster placements or formal kinship care. In Virginia, however, the majority of kinship care arrangements are informal kinship care in that there is no child welfare involvement and care is provided by relatives in the absence of a parent. Informal kinship care refers to the lack of child welfare agency involvement, not the lack of permanency.

Recommendation 1

Support the continued implementation of Virginia's Children's Services System Transformation.

Recommendation 2

Request the Department of Social Services clarify policies and provide training to ensure kinship care, both formal and informal kinship care, is identified as a goal for permanency.

Findings

Accessing resources is difficult for relatives raising children.

There is considerable lack of knowledge about what resources are available for relative caregivers. Relative caregivers assert that resources, not money, are needed to assist them in raising the children placed in their care. Specifically, child care, health care, mental health services, housing, and transportation were identified by caregivers as most needed, but either lacking or unavailable. Because schools and social service agencies are not integrated, it is extremely difficult for relative caregivers to access community services for their children. Finally, legal aid has been identified by relative caregivers as a critical service in that it helps them resolve custody arrangements, school enrollment issues, and other legal matters. In Virginia, accessing resources is complicated by the great disparity in service availability across the Commonwealth. Relative caregivers are particularly isolated in Virginia's rural localities, which makes accessing community services even more difficult.

Kinship caregivers may not be aware that they may be eligible for a variety of programs such as Temporary Assistance for Needy Families (TANF), Virginia's Family Access to Medical Insurance Security (FAMIS), Medicaid, the Women, Infants, and Children Program (WIC), or for services available through Virginia's Comprehensive Services Act (CSA). There is also a lack of knowledge among kinship care providers regarding Virginia 2-1-1, a telephone and Internet service that provides access to services from a health and human services database. Virginia 2-

1-1 is a helpful information and referral resource for kinship caregivers because trained professionals can help link relatives to government, nonprofit, privately-funded, and/or community-based services pertinent for their specific needs.

Recommendation 3

Request the Virginia Department for the Aging Kinship Care Task Force develop a plan for the creation of a Kinship Care Navigator. This effort will include local departments of social services, local health departments, Virginia’s Area Agencies on Aging (AAAs), community services boards (CSBs), local school divisions, and community action agencies and will address dissemination of information to relative caregivers regarding available social service programs and benefits (e.g., TANF, FAMIS, Medicaid, WIC, housing assistance, and the Comprehensive Services Act). Potential public and/or private funding sources will be included in this plan. The Department will report on the status of this plan to the Commission on Youth prior to the 2012 General Assembly Session.

Recommendation 4

Request the Department of Social Services develop a plan for using Virginia 2-1-1 to serve as a resource tool for juveniles released into the community in assisting them transition back to the community.

Findings

Funding for kinship care is not always perceived as an investment.

Funding for kinship care services has not been a priority, primarily due to the attitudes surrounding kinship care outlined in the Findings supporting Recommendations 1 and 2. However, kinship care is typically less costly in the long run by preventing the stigma and intrusion of child welfare system and by preventing a more restrictive foster care placement. In a 2007 report by the Joint Legislative Audit and Review Commission (JLARC), Evaluation of Children’s Residential Services Delivered through the Comprehensive Service Act, “[the] lack of foster families was identified by local Community Policy and Management Teams (CPMTs) as a critical service gap.” Findings showed that 62 percent of local departments placed a child in an overly intensive or restrictive service. As noted in the JLARC report, it is more than four times as expensive to serve a child in a residential environment as in the community (average annual cost of \$48,129 per year versus \$11,360 per year in 2005). Serving even a seemingly low number of children in a setting that is overly restrictive can quickly escalate program costs. More importantly, stakeholders interviewed for the JLARC report consistently indicated that removing children from their families and communities could negatively affect their well-being and ability to surmount their behavioral and emotional problems. Conversely, children in kinship care placements generally have a greater likelihood of being successful and not experiencing negative outcomes (e.g., dropping out of school or incarceration).

In a 2009 decision brief published by the Virginia Department of Social Services (DSS), the benefits of providing kinship guardianship assistance payments were outlined. In Virginia, this type of kinship guardianship payments is called Custody Assistance. Custody Assistance has the potential to be cost-effective by increasing permanency and decreasing emancipation from foster care without permanent family connections. In 2008, the federal Fostering Connections to Success and Increasing Adoptions Act was passed and signed into law. This Act strives to achieve better outcomes for children who are at risk of entering or who are in foster care and allows states to use federal funds to provide assistance for children to leave foster care and live permanently with relatives. This creates another permanency option for children who likely would

have remained in foster care until they “aged out” of the system. DSS formed a work group to study the feasibility of creating Subsidized Custody as a permanency option for children in foster care living with relatives. While a plan was developed, it has not been implemented.

Another barrier to implementing kinship care in Virginia identified by the Advisory Group is the lack of funding provided to local departments of social services for implementation of the Family Engagement Model for kinship care. The Family Engagement Model is a key building block of the Virginia’s Children’s Services System Transformation, which establishes a structured and deliberate approach to partnering with families. This model is designed to involve the entire family in making decisions about the best interests of children at risk for abuse and neglect. Family engagement recognizes that all families have strengths, families are the experts on themselves, that families deserve to be treated with dignity and respect, that families can make well-informed decisions about keeping their children safe when supported, that family involvement in decision making improves outcomes, and that a team is often more capable of creative and high-quality decision-making than an individual. However, local social service workers indicate that accessing training on this model is difficult and that other barriers to kinship care must be addressed prior to the statewide implementation of the model.

Recommendation 5

Request the Department of Social Services move forward with implementing the Custody Assistance Program (formerly Subsidized Custody to a Relative Program). Request the Department of Social Services report on the costs of providing formal kinship care as compared to therapeutic foster care, residential treatment, and even the cost of incarceration. The benefits and positive outcomes experienced by children who are placed with family members will also be included in this report. The Department shall report these findings to the Commission on Youth prior to the 2012 General Assembly Session.

Findings

There is no data on the number of informal kinship care arrangements in Virginia.

Kinship care is typically divided into the subcategories of formal and informal care. Formal kinship care is the care provided under auspices of the state. In a formal kinship care arrangement, the child is in the custody of a local department of social services and living with a relative who is an approved foster parent. In a formal kinship care arrangement, assistance includes:

- annual training to develop knowledge and improve skills regarding meeting the needs of the child;*
- a monthly stipend for the child's basic care requirements; and*
- the management of the child's behavior.*

In an informal kinship care arrangement, the child is not in the custody of a local department of social services.

Because of the lack of DSS involvement, it is extremely difficult to gather data on informal kinship care. It has been reported that Virginia ranks last in the nation in the number of children placed in formal kinship care arrangements. Informal kinship care placements; however, are not acknowledged in this ranking. Local departments of social services have noted that informal kinship care arrangements have diverted children from entering the foster care system. DSS is studying kinship care diversion as placement option for permanency. The Child Welfare Strategy Group, part of the Annie E. Casey Foundation, and Child Trends is working with DSS to conduct a study focused on identifying practices and philosophies around using kin as a way to prevent bringing children into foster care. This research will assist in the development of a diversion practice model.

Recommendation 6

Request the Department of Social Services update the Commission on Youth on the Kinship Care Diversion Project which will help ascertain the number of children diverted from foster care and placed with kinship providers. This update will include outcome data and cost savings of such diversion. This update will take place prior to the 2012 General Assembly Session.

Findings

Barrier crime laws in Virginia which apply to kinship care placements are overly-restrictive. Relatives pursuing formal kinship care must undergo criminal background checks identical to foster care families. Virginia has created a statutory list of crimes that bar formal kinship care applicants for life, enumerated in the Code of Virginia § 63.2-1719. Specifically, burglary and possession of drugs are the main concerns for foster care because, unlike other states, Virginia has a lifetime look-back period for both offenses. For example, relatives may be barred from formal kinship care because of a drug charge that occurred while they were young. Even if that relative has not had any other law enforcement activity and has been a productive citizen, the drug charge alone bans them from formal kinship care. During fiscal year 2010, 80 cases were found to be ineligible for relative foster care placements because of a barrier crime. The majority of the denials involved cases where the barrier crime occurred over 20 years ago. Examples of these crimes include misdemeanor drug possession or misdemeanor assault.

Additionally, Virginia's barrier crime statutes are confusing and there are gaps in the statutes which need to be corrected (e.g., the Abduction section of the Code of Virginia is inconsistent). Clarifying the statute will also strengthen existing gaps in the barrier crimes provisions.

Recommendation 7

Request the Crime Commission evaluate Virginia's barrier crime statutes in the Code of Virginia and offer recommendations which will make provisions consistent while reducing existing gaps in these statutes. The Crime Commission will update the Commission on Youth on the findings from this study prior to the 2012 General Assembly Session.

Recommendation 8

Request the Department of Social Services, with assistance from the Office of the Attorney General, to annually review and update the listing of barrier crimes impacting the licensure of foster or adoptive parents approved by child-placing agencies and family day homes approved by family day systems. The barrier crime listing will be distributed annually to all local departments of social services.

Findings

Kinship caregivers frequently face challenges enrolling the child placed in their care in school. Public school officials assume that children must live with their biological parents or a legal guardian in order to register. Section 22.1-3. of the Code of Virginia outlines various categories which create "presumptions of residency" for purposes of receiving a free public education. However, there is a need to clarify these categories, as well as the school enrollment process, for relative caregivers who are informal kinship care providers.

This was addressed in an Attorney General's Opinion dated June 14, 2007. One of two issues presented was the availability of a free education for a child in the legal custody of someone other than a parent. The Attorney General's Opinion noted that a school division may not refuse to provide a free education to a bona fide resident of the school division based solely on the

categories in § 22.1-3. of the Code of Virginia. These categories create "presumptions of residency" and, therefore, entitlement to the free education offered by that school division. However, this Attorney General's Opinion concluded that these statutory categories were factors for school divisions to consider in determining the residence of a child. However, situations in addition to those listed in the Code of Virginia may also entitle persons residing in a locality to free admission to public schools in the locality. Local school divisions must provide the opportunity to demonstrate a bona fide residence and make a determination based on all pertinent facts. School divisions may not refuse to provide free education to a bona fide resident of the school division based solely on the categories set forth in the Code of Virginia.

Recommendation 9

The Commission on Youth will convene an advisory group of representatives from impacted agencies and stakeholder organizations to study ways to clarify the school enrollment process for informal kinship caregivers. Legal guardianship will also be addressed in this review. The advisory group will formulate recommendations to be shared with the Commission on Youth prior to the 2012 General Assembly Session.

Recommendation 10

Request the Virginia Department of Education to issue a Superintendent's Memorandum outlining the Attorney Generals Opinions which state local school divisions may not refuse to provide free education to *bona fide* residents and that enrollment determinations be made based on all pertinent facts.

Recommendation 11

Request the Virginia Association of Elementary School Principals, the Virginia Association of Secondary School Principals, the Virginia School Board Association, and the Virginia Association of School Superintendents include information from the Attorney General's Opinions clarifying local school divisions may not refuse to provide free education to *bona fide* residents and enrollment determinations be made based on all pertinent facts at their annual conferences and trainings.

Findings

The due diligence search requirement for locating relative caregivers can be problematic for smaller local departments of social services. Guidance is needed to assist in fulfilling this mandate.

The Fostering Connections to Success and Increasing Adoptions Act requires states to exercise due diligence to identify and provide notice to all adult relatives of the child within 30 days after the removal of a child from the custody of the parent. The state must inform relatives of their options "to participate in the care and placement of the child" including the requirements "to become a foster family home and the additional services and supports that are available for children placed in such a home." This requirement will allow relative caregivers to be informed of the option which may enable them to care for their related children.

Identification and notice requirements are intended to connect children to their extended family early in their involvement with the child welfare system. However, local departments of social services, particularly smaller or rural departments have expressed concern about fulfilling the due diligent search requirement. Many localities have started utilizing databases or web-based social networking sites. However, additional guidance would be appreciated, particularly guidance regarding accessing existing web-based databases, partnering with other localities, and integrating diligent search into exiting steps in the child welfare process.

Recommendation 12

Support the Virginia Department of Social Services in their efforts to provide training to local departments of social services on family engagement, technical assistance on the requirements of diligent family search, and strategies for rural localities.

Recommendation 13

Support the Virginia Department of Social Services' efforts to obtain funding for a family locator search engine, e.g., Accurint®, which will assist local departments of social services in their efforts to perform due diligence searches and identify extended family to help children maintain connections with their families.

VIII. Acknowledgments

The Virginia Commission on Youth extends special appreciation to the members of the Advisory Group and to the following for their assistance and cooperation on this study:

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Kinship Care in the U.S: Policy Developments and Best Practices

Presentation for the Virginia Commission on Youth

Jennifer Miller, ChildFocus

September 20, 2010

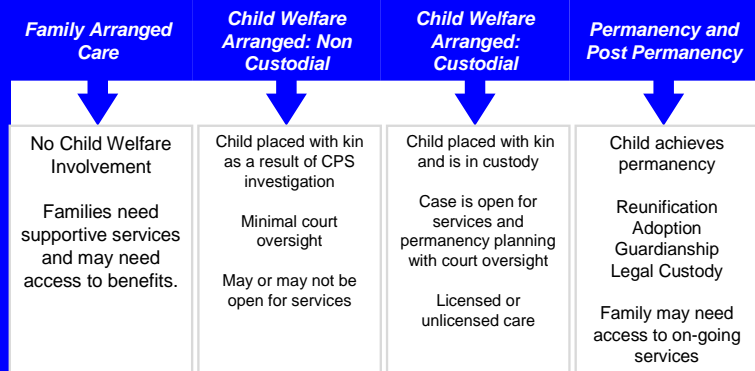


Overview of Presentation

- Kinship care in context
- Recent policy developments at the federal level
- Best practices in the states for finding, engaging, approving and supporting kinship families
- Kinship care in Virginia

2

The Kinship Care Continuum



3

Why Kinship Care for Abused and Neglected Children?

- Increases stability for children during time in foster care
- Reduces trauma
- Increases likelihood of being placed with siblings
- Helps children maintain familial and cultural ties important to their well-being

4

Recent Research

Children's Hospital of Philadelphia (June 2008)

- National sample -- 1,309 children removed from their homes 3 years post placement
- 2/3 in long last settings as compared to 1/3 of children in traditional foster care
- 32% were at risk of behavioral problems as compared to 46% risk in traditional foster care

Archives of Pediatric and Adolescent Medicine 5

Recent Research

Colorado State University (2006)

- Children in kinship placements experienced fewer placements
- Children in traditional foster care were 2X more likely to re-enter care and 6X more likely to be involved with Youth Corrections
- Children in foster care were 2X more likely to be reunified with their parents

Child Welfare Outcomes in Colorado: A Matched Comparison between Children in Kinship Care and Foster Care 6

Data Snapshot

Pew Center for Research report released
September 2010 based on 2008 Census
data

- 2.9 million children living with grandparents who are the primary caregivers in 2008
- 6% increase between 2007-2008
- 16% increase since 2000

7

Data Snapshot

- In 2009, 24% of children in foster care were placed with relatives
- 30% of the families who adopted from foster care with relatives (increase of 9% since 2000)
- 7% of children exited foster care to guardianship; 8% “living with other relative”

(AFCARS, preliminary estimates for 2009)

8

Kinship Care Challenges: Philosophical

- When government intervenes on behalf of a child, what are the legal and moral responsibilities to support that child?
- How do we undo corrosive myths about vulnerable families (i.e. the apple doesn't fall far from the tree)

9

Kinship Care Challenges: Systemic

- How do we take a system designed for traditional foster care and make it work for kin families?
- How do we find the right balance between kinship care as a diversion from foster care and kinship care for children in state custody?

10

Children and Families Speak Out for Kinship Care

Fostering Connections to Success and Increasing Adoptions Act of 2008

- Relative Notice
- Kinship Guardianship Assistance Fund
- Sibling Connections
- Licensing Waivers



11

Best Practices in Kinship Care

Finding kin
Engaging kin families
Approving kin as foster parents
Supporting all kin families



12

Finding Kin



Compliance with Notice Provision of Fostering Connections

- Majority of states have written notice
- Best practices:
 - strategies for documentation of notice (i.e. SACWIS)
 - asking relatives to identify others in family network
 - State technical assistance for implementation of notice

13

Finding Kin



Other diligent search methods

Using a broad definition of kin

Talking to youth and parents

Genograms

Family team meetings and court hearings

Applying technological resources

On-going diligent search

Fire walls at initial placement

14

Engaging and Educating Kin

- Full disclosure of all options
 - What is in the best interests of the child: diversion from foster care or state custody?
 - Family team meetings, orientation sessions, resource parent support, court hearings
- Presentation of roles beyond placement
- Support for kin to become full members of the family team
- Respect for the role that kin can play to reduce trauma and enhance stability

15

Approval of Kin



- Developing a team approach to initial, expedited placements
- Creating special kinship care units or specialized contracts with providers
- Developing specialized training for kin caregivers
 - Help kin deal with immediate needs of child
 - Incorporate content on challenges of changing roles and family dynamics

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Approval of Kin

- Removing Barriers to Licensing
 - Identify licensing barriers for kin
 - Are barriers safety or non safety issues?
 - Appreciate the differences between kin and non kin placements
 - Change agency policy/administrative rule to create a clearly articulated policy
 - Create a higher level of review

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Support for Kin Families

- Ensuring equity for kin families through licensing as foster parents
- Identifying community resources for kin (support groups, legal counsel, aging departments, etc.)
- Federal guardianship assistance program to achieve permanency for children and youth in foster care who can not return home or be adopted

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Progress for Guardianship Assistance Program (GAP)

9 states have approved state plan amendments and are implementing GAP

RI, PA, TN, MI, OR,
NJ, MT, IL, and DC

10 states are awaiting federal approval for their plans:

CO, CT, ME, MA, MD,
MO, NE, SD, TX,
WA

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Virginia “Diversion” Study

Collaboration between Virginia Department of Social Services and the Annie E. Casey Foundation

Learn current practices and philosophies in Virginia for using kin as prevention from custody

Inform development of kinship practice model

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We think, based on experience in many states, that diversion is a common practice sometimes being implemented without sufficient attention to safety, permanency or well-being.

Assumptions About Current Common “Diversion” Practice

(preventing foster care by placing children informally with kin)

- Minimal safety assessment
- Short-term reunification plans/services to birth parents
- Limited legal authority, services or resources for kin
- Often no disclosure to kin of available options
- Limited follow up to determine if child is safe
- Unclear plans for permanency
- No data tracking (re-entry)

IMPLICATIONS

- Lack of Permanency
- Safety/Stability Concerns
- Parents/Kin without Services/Supports

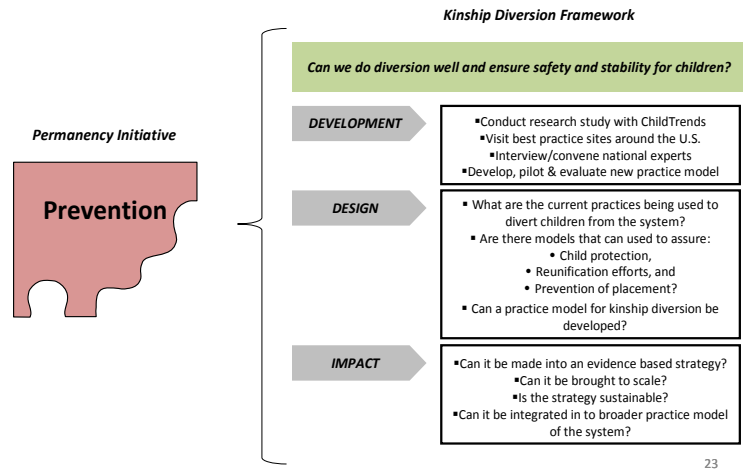
Given the reality that questionable practice often exists and will likely continue, we may be in a position to develop a practice model that improves supports for children & families.



Potential New Practice Model

Children	Birth Parents	Kin
•Permanency Planning	•Rights Honored	• Legal Guardianship
•Home Safety Assessment	•Connection to Child	•Available Options
•Data Tracking	•Reunification Resources/Supports	•Services and Supports

Virginia will lead the country in helping develop a prevention strategy focused on building system practice, and hopefully evidence-based practice, for kinship diversion to be applied in other states and localities.



Study Participants

- County administrators and program managers
- Intake and investigative unit supervisors
- Intake, investigative, ongoing workers, TANF child-only workers
- Kinship caregivers
- Judges, community stakeholders

Issues to Guide the Research Questions

- Family awareness of options
 - Kin awareness of options available with being in or out of the system
 - Child welfare staff understanding of available resources for kin
- Birth parent rights
 - Birth parents role in decision to divert
 - Reunification services and support (with and without the assistance of the agency)

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Issues to Guide the Research Questions

- Assessing safety and stability
 - Ensuring child will be safe and stable in kin caregiver's home
 - Ongoing supervision of case
- Services and supports for youth, birth parents, and kin including financial supports
 - Ongoing services to maintain the placement and ensure family well-being

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Barrier Crime Provisions Related to Kinship Care in the Code of Virginia (§ 63.2-1719)

Crime: Conviction of ...	VA CODE Section	Relevant Va. Code Text
<u>Murder or Manslaughter</u>	§18.2-30	Capital murder, murder of the first degree, murder of the second degree, voluntary manslaughter, or involuntary manslaughter
<u>Malicious wounding by a mob</u>	§18.2-41	Any person who maliciously or unlawfully shoots, stabs, cuts or wounds any person, or by any means causes him bodily injury with intent to maim, disable, disfigure or kill him
<u>Abduction</u>	§18.2-47(A)	Any person who, by force, intimidation or deception, and without legal justification or excuse, seizes, takes, transports, detains or secretes another person with the intent to deprive such other person of his personal liberty or to withhold or conceal him from any person, authority or institution lawfully entitled to his charge, shall be deemed guilty of "abduction."
<u>Abduction for Immoral Purposes</u>	§18.2-48	Abduction (i) with the intent to extort money or pecuniary benefit, (ii) of any person with intent to defile such person, or (iii) of any child under sixteen years of age for the purpose of concubinage or prostitution
<u>Assaults and Bodily Woundings</u>	§18.2-51	Any person who maliciously shoots, stabs, cuts, or wounds any person or by any means cause him bodily injury, with the intent to maim, disfigure, disable, or kill
<u>Robbery</u>	§18.2-58	Any person who commits robbery by partial strangulation, or suffocation, or by striking or beating, or by other violence to the person, or by assault or otherwise putting a person in fear of serious bodily harm, or by the threat or presenting of firearms, or other deadly weapon or instrumentality whatsoever
<u>Carjacking</u>	§18.2-58.1	The intentional seizure or seizure of control of a motor vehicle of another with intent to permanently or temporarily deprive another in possession or control of the vehicle of that possession or control by means of partial strangulation, or suffocation, or by striking or beating, or by other violence to the person, or by assault or otherwise putting a person in fear of serious bodily harm, or by the threat or presenting of firearms, or other deadly weapon or instrumentality whatsoever
<u>Threats of death or bodily injury</u>	§18.2-60	Any person who knowingly communicates, in a writing, including an electronically transmitted communication producing a visual or electronic message, a threat to kill or do bodily injury to a person, regarding that person or any member of his family, and the threat places such person in reasonable apprehension of death or bodily injury to himself or his family member; any person who does so (i) on the grounds or premises of any elementary, middle or secondary school property, (ii) at any elementary, middle or secondary school-sponsored event or (iii) on a school bus to any person or persons, regardless of whether the person who is the object of the threat actually receives the threat, and the threat would place the person who is the object of the threat in reasonable apprehension of death or bodily harm
<u>Felony Stalking</u>	§18.2-60.3	Any person who, on more than one occasion, engages in conduct directed at another person with the intent to place, or when he knows or reasonably should know that the conduct places that other person in reasonable fear of death, criminal sexual assault, or bodily injury to that other person or to that other person's family or household member

<u>Sexual Assault</u>		§18.2-61	Rape: Any person who has sexual intercourse with a complaining witness, whether or not his or her spouse, or causes a complaining witness, whether or not his or her spouse, to engage in sexual intercourse with any other person and such act is accomplished (i) against the complaining witness's will, by force, threat or intimidation of or against the complaining witness or another person; or (ii) through the use of the complaining witness's mental incapacity or physical helplessness; or (iii) with a child under age 13 as the victim
<u>Arson</u>		§18.2-77	Any person who maliciously(i) burns, or by use of any explosive device or substance destroys, in whole or in part, or caused to be burned or destroyed, or(ii) aids, counsels or procures the burning or destruction of any dwelling house or manufactured home whether belonging to himself or another, or any occupied hotel, hospital, mental health facility, or other house in which persons usually dwell or lodge, any occupied railroad car, boat, vessel, or river craft in which persons usually dwell or lodge, or any occupied jail or prison, or any occupied church or occupied building owned or leased by a church that is immediately adjacent to a church; Any person who maliciously sets fire to anything, or aids, counsels or procures the setting fire to anything, by the burning whereof such occupied dwelling house, manufactured home, hotel, hospital, mental health facility or other house, or railroad car, boat, vessel, or river craft, jail, or prison, church or building owned or leased by a church that is immediately adjacent to a church, is burned
<u>Drive by Shooting</u>		§18.2-286.1	Any person who, while in or on a motor vehicle, intentionally discharges a firearm so as to create the risk of injury or death to another person or thereby cause another person to have a reasonable apprehension of injury or death
<u>Use of a Machine Gun in a Crime of Violence</u>		§18.2-289	Possession or use of a machine gun in the perpetration or attempted perpetration of a crime of violence
<u>Aggressive Use of a Machine Gun</u>		§18.2-290	Unlawful possession or use of a machine gun for an offensive or aggressive purpose
<u>Use of a Sawed Off Shotgun in Crime of Violence</u>		§18.2-300	Possession or use of a "sawed-off" shotgun or "sawed-off" rifle in the perpetration or attempted perpetration of a crime of violence; Possession or use of a "sawed-off" shotgun or "sawed-off" rifle for any other purpose, except as permitted
<u>Pandering</u>		§18.2-355	Any person who, (1) For purposes of prostitution or unlawful sexual intercourse, takes any person into, or persuades, encourages or causes any person to enter, a bawdy place, or takes or causes such person to be taken to any place against his or her will for such purposes; or, (2) Takes or detains a person against his or her will with the intent to compel such person, by force, threats, persuasions, menace or duress, to marry him or her or to marry any other person, or to be defiled; or,

			(3) Being parent, guardian, legal custodian or one standing in loco parentis of a person, consents to such person being taken or detained by any person for the purpose of prostitution or unlawful sexual intercourse
<u>Crimes Against Nature Involving Children</u>		§18.2-361	If any person carnally knows in any manner any brute animal, or carnally knows any male or female person by the anus or by or with the mouth, or voluntarily submits to such carnal knowledge; Any person who performs or causes to be performed cunnilingus, fellatio, anilingus or anal intercourse upon or by his daughter or granddaughter, son or grandson, brother or sister, or father or mother
<u>Incest</u>		§18.2-366	Any person who commits adultery or fornication with any person whom he or she is forbidden by law to marry
<u>Taking Indecent Liberties with Children</u>		§18.2-370 or § 18.2-370.1	Any person 18 years of age or over, who, with lascivious intent, knowingly and intentionally commits any of the following acts with any child under the age of 15 years: (1) Exposes his or her sexual or genital parts to any child to whom such person is not legally married or propose that any such child expose his or her sexual or genital parts to such person; or (2) [Repealed.] (3) Proposes that any such child feel or fondle the sexual or genital parts of such person or propose that such person feel or fondle the sexual or genital parts of any such child; or (4) Propose to such child the performance of an act of sexual intercourse or any act constituting an offense under § 18.2-361; or (5) Entices, allures, persuades, or invites any such child to enter any vehicle, room, house, or other place, for any of the purposes set forth in the preceding subdivisions of this section. Any person 18 years of age or over who, with lascivious intent, knowingly and intentionally receives money, or any other remuneration for allowing any person under the age of 18 years to perform in or be a subject of sexually explicit visual material Any parent, step-parent, grandparent or step-grandparent who commits a violation of either this section or clause (v) or (vi) of subsection A of § 18.2-370.1 (i) upon his child, step-child, grandchild or step-grandchild who is at least 15 but less than 18 years of age
<u>Abuse and Neglect of Children</u>		§18.2-371.1	Any parent, guardian, or other person responsible for the care of a child under the age of 18 who by willful act or omission or refusal to provide any necessary care for the child's health causes or permits serious injury to the life or health of such child Any parent, guardian, or other person responsible for the care of a child under the age of 18 whose willful act or omission in the care of such child was so gross, wanton and culpable as to show a reckless disregard for human life
<u>Failure to Secure Medical Attention for an Injured Child</u>		§18.2-314	Any parent or other person having custody of a minor child which child shows evidence of need for medical attention as the result of physical injury inflicted by an act of any member of the household, whether the injury was intentional or unintentional, who knowingly fails or refuses to secure prompt and adequate medical attention, or who conspires to prevent the securing of such attention, for such minor child

<u>Obscenity Offenses</u>		§18.2-374.1	A person shall be guilty of production of child pornography who: 1. Accosts, entices or solicits a person less than 18 years of age with intent to induce or force such person to perform in or be a subject of child pornography; or 2. Produces or makes or attempts or prepares to produce or make child pornography; or 3. Who knowingly takes part in or participates in the filming, photographing, or other production of child pornography by any means; or 4. Knowingly finances or attempts or prepares to finance child pornography.
<u>Possession of Child Pornography</u>		§18.2-374.1:1	Any person who reproduces by any means, including by computer, sells, gives away, distributes, electronically transmits, displays with lascivious intent, purchases, or possesses with intent to sell, give away, distribute, transmit, or display child pornography with lascivious intent; any person who intentionally operates an Internet website for the purpose of facilitating the payment for access to child pornography
<u>Electronic Facilitation of Pornography</u>		§18.2-374.3	It shall be unlawful for any person 18 years of age or older to use a communications system, including but not limited to computers or computer networks or bulletin boards, or any other electronic means, for the purposes of soliciting, with lascivious intent, any person he knows or has reason to believe is a child less than 15 years of age to knowingly and intentionally: (1) Expose his sexual or genital parts to any child to whom he is not legally married or propose that any such child expose his sexual or genital parts to such person; (2) Propose that any such child feel or fondle the sexual or genital parts of such person or propose that such person feel or fondle the sexual or genital parts of any such child; (3) Propose to such child the performance of an act of sexual intercourse or any act constituting an offense under § 18.2-361; (4) Entice, allure, persuade, or invite any such child to enter any vehicle, room, house, or other place, for any purposes set forth in the preceding subdivisions.
<u>Abuse and Neglect of Incapacitated Adults</u>		§18.2-369	It shall be unlawful for any responsible person to abuse or neglect any incapacitated adult
<u>Employing or Permitting a Minor to Assist in an Act Constituting an Offense</u>		§18.2-379	The word "obscene" where it appears in this article shall mean that which, considered as a whole, has as its dominant theme or purpose an appeal to the prurient interest in sex, that is, a shameful or morbid interest in nudity, sexual conduct, sexual excitement, excretory functions or products thereof or sadomasochistic abuse, and which goes substantially beyond customary limits of candor in description or representation of such matters and which, taken as a whole, does not have serious literary, artistic, political or scientific value.
<u>Delivery of Drugs to Prisoners</u>		§18.2-474.1	Any person who shall willfully in any manner deliver, attempt to deliver, or conspire with another to deliver to any prisoner confined under authority of the Commonwealth of Virginia, or of any political subdivision thereof, any drug which is a controlled substance regulated by the Drug Control Act in Chapter 34 of Title 54.1 or marijuana; Any person who shall willfully in any manner so deliver or attempt to deliver or conspire to deliver to any such prisoner, firearms, ammunitions, or explosives of any nature
<u>Escape from Jail</u>		§18.2-477	If any person confined in jail or in custody after conviction of a criminal offense shall escape by force or violence, other than by setting fire thereto

<u>Felonies by Prisoners</u>		§53.1-203	<p>It shall be unlawful for a prisoner in a state, local or community correctional facility or in the custody of an employee thereof to:</p> <p>(1) Escape from a correctional facility or from any person in charge of such prisoner;</p> <p>(2) Willfully break, cut or damage any building, furniture, fixture or fastening of such facility or any part thereof for the purpose of escaping, aiding any other prisoner to escape therefrom or rendering such facility less secure as a place of confinement;</p> <p>(3) Make, procure, secrete or have in his possession any instrument, tool or other thing for the purpose of escaping from or aiding another to escape from a correctional facility or employee thereof;</p> <p>(4) Make, procure, secrete or have in his possession a knife, instrument, tool or other thing not authorized by the superintendent or sheriff which is capable of causing death or bodily injury;</p> <p>(5) Procure, sell, secrete or have in his possession any chemical compound which he has not lawfully received;</p> <p>(6) Procure, sell, secrete or have in his possession a controlled substance classified in Schedule III of the Drug Control Act or marijuana;</p> <p>(7) Introduce into a correctional facility or have in his possession firearms or ammunition for firearms</p> <p>(8) Willfully burn or destroy by use of any explosive device or substance, in whole or in part, or cause to be so burned or destroyed, any personal property, within any correctional facility;</p> <p>(9) Willfully tamper with, damage, destroy, or disable any fire protection or fire suppression system, equipment, or sprinklers within any correctional facility; or</p> <p>(10) Conspire with another prisoner or other prisoners to commit any of the foregoing acts.</p>
<u>An Equivalent Offense in Another State</u>			
<u>Burglary</u>		§18.2-89	If any person break and enter the dwelling house of another in the nighttime with intent to commit a felony or any larceny therein
<u>Felony Violation Relating to Possession or Distribution of Drugs</u>		§18.2-247	Use of terms "controlled substances," "marijuana," "Schedules I, II, III, IV, V and VI," "imitation controlled substance" and "counterfeit controlled substance"

Appendix D

COMPARISON OF STATE PRACTICES REGARDING BARRIER CRIMES			
State	Crimes that Ban for Life	Crimes that Ban for a Specified Time Period	Corresponding Statute
Arizona	Sexual abuse of child or vulnerable adult, incest, homicide etc, child prostitution, child abuse, sexual conduct with minor, dangerous crimes against children, exploitation of minors involving drug offenses, taking child for prostitution, abuse/neglect of vulnerable adult, possession of obscene items, furnishing harmful items to minors, obscene phone communications, pandering, transporting persons for prostitution, felony offense contributing to delinquency of minor, sale of children, child bigamy, domestic violence, indecent exposure, terrorism	5 years: felony drug or alcohol related offenses	Arizona Code § 8-509
Arkansas	Child abuse/neglect, spousal abuse, crime against children, crime involving violence, murder, kidnapping, rape, 1st/2nd degree assault, endangering welfare of minor/incompetent person, incest, arson, adult abuse	5 years: Physical assault, battery, drug related offense	Arkansas Code § 9-28-409
Colorado	Child abuse, crime of violence, felony sexual behavior offense, felony domestic violence offense	5 years: physical assault, battery, drug related offense 10 years: a pattern of misdemeanor convictions	Colorado Code §§ 26-6-107 & 26-6-120
Connecticut	injury/risk of injury to minor, impairing morals of minor, violent crime against person, illegal use of firearm, child abuse/neglect, minor removed from care because of neglect/abuse	5 years: possession, use or sale of controlled substances	Connecticut Code § 17a-114
Delaware	sexually related offense	5 years: assault, battery, drug related offenses	Delaware Code 31 § 309
DC	child abuse/neglect or intrafamily offense, crime against children, crime of violence	5 years: physical assault, battery, drug related offense, fraud	Code of DC §§ 4-1305.02 & 4-1305.06
Florida	child abuse/abandonment/neglect, domestic violence, crimes against children, homicide, sexual battery, other crimes of violence (but not including felony assault/battery when victim was an adult)	5 years: assault, battery, drug related offenses	Florida Code § 39.0138
Idaho	abuse/neglect/exploitation of vulnerable adult, aggravated/1st/2nd degree arson, crimes against nature, forcible sexual penetration with foreign object, incest, injury to child, kidnapping, lewd conduct with minor, mayhem, murder etc, poisoning, possession of sexually explicit material, rape, robbery, felony stalking, sale or barter of child, sexual abuse of child, video voyeurism, enticing children, inducing minors into prostitution, any felony punishable by death/life imprisonment, attempt or conspiracy to commit any of the above	5 years: aggravated assault, aggravated battery, arson in 3rd degree, burglary, felony involving controlled substance, felony or grand theft, forgery/counterfeiting/fraudulent use of transaction card, insurance or public assistance fraud, attempt/conspiracy/aiding and abetting any of the above	Idaho Code § 39-1210
Illinois		10 years: all serious criminal offenses (if the foster care applicant meets other requirements as well)	Illinois Code 225 § 10/4.1
Iowa	Child endangerment/neglect/abandonment, domestic abuse, crime against child, forcible felony	5 years: drug related offense	Iowa Code § 237.8

Kentucky	sexual abuse/exploitation of child, responsible for child fatality, termination of parental rights, child abuse/neglect, felony conviction involving spouse/child, sexual violence, or death	5 years: physical abuse, battery or drug or alcohol related offense 7 years: abuse or neglect of child	Kentucky Code § 199.462
Maine	child abuse/neglect, spousal abuse, crime against child, crime of violence	5 years: drug related offense, physical assault or battery	
Maryland		5 years: physical assault/battery, drug related offense	
Minnesota	None	15 years: felony level of false representation, food stamp fraud, vehicular homicide, assault, criminal abuse of vulnerable adult, use of drugs to injure, robbery, repeat offenses of criminal sexual conduct in 5th degree, medical assistance fraud, theft, identity theft, insurance fraud, check forgery, weapons charges, indecent exposure, conviction involving drug or alcohol abuse 10 years: gross misdemeanor level of above offenses 7 years: misdemeanor level of above offenses	
Nebraska	aggravated robbery, arson, assault, child abuse, commercial sexual exploitation of minor, criminal nonsupport, domestic violence, exploitation of minor involving drug offense, felony controlled substance offense, felony violation of custody, incest, kidnapping, murder, robbery, sexual abuse of minor, sexual assault, child pornography, voluntary manslaughter	5 years: burglary, DUI, misdemeanor controlled substance, misdemeanor contributing to delinquency of a child	
Nevada	crime of harm to child, child abuse, spousal abuse, crime of violence	5 years: physical assault, battery or drug related offense	
New Hampshire	child abuse/rape/sexual assault/homicide but NOT battery	5 years: felony for physical assault, battery or drug related offense	
New Jersey	crimes against children, murder etc., assault, stalking, kidnapping, sexual assault, robbery 1st degree, burglary 1st degree, domestic violence, endangering welfare of elderly person, terrorist threats, arson	aggravated assault 4th degree, drug related crime, robbery 2nd degree, burglary 3rd degree	
New York	child abuse/neglect, spousal abuse, crime against child, crime of violence	5 years: felony for physical assault, battery or drug related offense	
North Carolina	child abuse/neglect, spousal abuse, crime against child, crime of violence	5 years: felony for physical assault, battery or drug related offense	
North Dakota		if 15 years after simple assault charge, applicant has not been reconvicted, considered rehabilitated	
Oregon	child abuse/neglect, spousal abuse, crime against child, crime of violence	5 years: felony for physical assault, battery or drug related offense	
Pennsylvania	homicide, assault, stalking/kidnapping, rape, concealing death of child, endangering welfare of child, felony prostitution/pornography, corruption of minors, sexual abuse of children	5 years: felony drug offense	
Texas	misdemeanors: offenses against person or family, robbery, public indecency, stalking, criminal solicitation of minor, failure to stop repeated aggravated sexual assault of child	10 years: Texas Controlled Substances Act, making firearm accessible to child, intoxication and alcoholic beverage offenses	

Utah	child abuse, domestic violence, endangerment of a child, murder etc., kidnapping, sexual offense, sexual exploitation of child, aggravated arson/burglary/robbery, domestic violence	5 years: felony for physical assault, or drug related offense	
Washington	child abuse/neglect, spousal abuse, crime against child, crime of violence	5 years: physical assault/sex offense and felonies not listed above, felony violations of drug related crimes (manufacturing, delivering, or possession with intent to deliver)	
Wyoming	Not available		

ALL DRUG CRIMES ARE LIFETIME BANS.

STATE	DRUG/CONTROLLED SUBSTANCE OFFENSE
Alaska	Unclear
California	No
Georgia	No
Hawaii	Unclear
Indiana	Unclear
Kansas	Yes
Louisiana	Yes, but not possession (manufacture/distribution)
Massachusetts	Yes (trafficking in cocaine, heroine or marijuana)
Michigan	Yes (misdemeanor distribution of controlled substance & furnishing alcohol to a minor)
Mississippi	Unclear
Missouri	Unclear
Montana	Unclear
New Mexico	Yes (trafficking controlled substance)
Ohio	Yes (drug trafficking, illegal manufacture of drugs, illegal cultivation of drugs)
Oklahoma	Yes (possession, sale or distribution)
Rhode Island	Yes (felony drug offense)
South Carolina	Yes (felony drug offense)
South Dakota	Yes (drug related crimes)
Tennessee	Unclear
Vermont	Yes (has current, unresolved problems with alcohol or other chemicals; any criminal offense)
West Virginia	Unclear
Wisconsin	No