

## RESTORATION OF PARENTAL RIGHTS

### STUDY PLAN

#### Study Mandate

- The Commission on Youth will study the feasibility of creating a procedure for the restoration of parental rights for parents whose rights to their child/children were previously terminated.
- This study originated from legislation introduced during the 2012 General Assembly Session (HB 450, Toscano; SB 218, Barker; SB 555, Favola).
- The Senate and House Courts of Justice Committees members reviewed these bills and determined that further study of this issue would be appropriate. The members of the Courts of Justice Committees requested the Commission on Youth to study the provisions set forth in the legislation and carried the bills over to the 2013 General Assembly Session.

#### Identified Issues

- Foster care is intended to be a temporary safety net for children who are abused or neglected. Ideally, children exit foster care by reunifying with a birth parent, living with a guardian, or through adoption.
- Unfortunately, the child welfare system does not locate a family for every child. In 2010, 11% of children exiting the system were emancipated from foster care at age 18 or older, without a safe, permanent family (also known as "aging out"). The number of children who aged out of the system rose significantly between 1998 and 2007, with more than a 70% increase during this period.<sup>1</sup>
- While Virginia has a very low rate of children in foster care, it ranks first among the states in the percent of children (32%) who age out of foster care.<sup>2 3</sup>
- When youth age out of foster care, they lack the moral and financial support of parents, relatives, and other supportive adults as well as a solid plan for the future. These children face especially difficult odds as they transition to adulthood. They risk homelessness, exposure to or involvement in the criminal justice system and reliance on public assistance.
- Moreover, older youth in foster care, in contrast to their younger peers, are more likely to be placed in a group home or institutional setting, and less likely to be in a pre-adoptive or family foster home. In 2009, nearly 54,000 youth aged 13-21 lived in a group or institutional setting, representing over one-third of this population.<sup>4</sup> The likelihood of being in a family foster home setting decreases with age among these 13-21 year olds.
- The *Adoption and Safe Families Act of 1997* (ASFA) requires that all reasonable efforts be made to secure permanency for youth in the system. In addition, the *Fostering Connections to Success and Increasing Adoptions Act of 2008* (Fostering Connections Act) provides child welfare agencies with numerous tools to connect youth with relatives and other caring adults. The Fostering Connections Act also mandates that transition planning be done with and for youth who age out of the system as adults.
- According to the National Conference of State Legislatures (NCSL), nine states have considered legislation that allows for the reinstatement of parental rights following

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<sup>1</sup> U.S. Department of Health and Human Services Adoption and Foster Care Analysis Reporting System (AFCARS), as cited by McCoy-Roth, M., DeVooght, K., & Fletcher, M. (2011). *Fosteringconnections.org*. [April 2012].

<sup>2</sup> Virginia Performs. (2011). <http://vaperforms.virginia.gov/indicators/healthfamily/fosterCare.php>. [May 2012].

<sup>3</sup> In 2010, Virginia ranked last in the average waiting time (18.6 months) between termination of rights from original guardians and finalization of adoption. By law, finalization of adoption in Virginia cannot occur until 3 months after the date of adoption to ensure the compatibility of the adoptive parent-child relationship. This law makes Virginia's waiting time longer and may cause some children to spend more time in foster care compared to their peers in other states.

<sup>4</sup> McCoy-Roth, M., DeVooght, K., & Fletcher, M. (2011).

termination of parental rights or reversal of termination of parental rights. The laws were developed in response to children who were aging out of the foster care system and with the goal of improving permanency outcomes for children in foster care.

- In 2005, California enacted legislation that permits a child who has not been adopted after at least three years from termination of parental rights to petition the juvenile court for reinstatement of parental rights, pursuant to specified procedures.
- In 2007, Washington enacted legislation allowing a child who is at least age 12 to petition the court to reinstate previously terminated rights of his or her parent(s). The law provides guidelines and requirements for filing such petitions.
- During the 2012 Virginia General Assembly Session, legislation was introduced to allow for the restoration of parental rights for children currently in the custody of the department of social services. These bills would have amended the *Code of Virginia* to address circumstances when a pre-adoptive parent had not been identified and the child was at least 14 years of age, had been previously adjudicated to be abused or neglected, a child in need of services (CHINS), a child in need of supervision (CHINSup), or delinquent.

## Study Activities

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

Virginia Department of Social Services	State Executive Council (SEC)
Local Departments of Social Services	State and Local Advisory Team (SLAT)
Virginia League of Social Service Executives	Local Comprehensive Services Act Coordinators
Special Advisor to the Governor on Virginia's Children's Services System	Family Assessment and Planning Teams (FAPT)
Juvenile Court Judges	Advocacy Organizations
Virginia Supreme Court	Parent Representatives
Office of Comprehensive Services	Private Child Placing Agencies
	CASA Representatives
	Guardians ad Litem
- Review federal legislation/statutes
  - *The Fostering Connections to Success and Increasing Adoptions Act* (P.L. 110-351)
  - Titles IV-B and IV-E of the Social Security Act
  - Temporary Assistance for Needy Families (TANF) block grant
  - *The Adoption and Safe Families Acts of 1997*
- Review Virginia laws, regulations, and terminology
  - Foster care and adoption statutes
  - Child welfare regulations
  - Other related practices
- Analyze Virginia practices and data.
  - Review state and local Department of Social Services' (LDSS) policies and practices
  - Review Virginia's custody assistance guidance documents
- Analyze other states' practices and procedures
  - National Conference of State Legislatures (NCSL)
  - State Policy Database from Casey Family Programs
  - Child Welfare League of America literature
- Develop recommendations
  - Synthesize findings
  - Develop recommendations
- Solicit feedback to recommendations
- Refine findings and recommendations
- Present findings and recommendations to the Commission on Youth
- Prepare final report