BARRIERS TO KINSHIP CARE IN VIRGINIA

Findings and Recommendations

Finding #1 – 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. 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.

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. Finally, 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.

Recommendations

1. **Support the continued implementation of Virginia's Children's Services System Transformation.**
2. **Request the Department of Social Services clarify policies and ensure adequate training is provided on ensuring kinship care is identified as a goal for permanency.**
3. **Request the Department of Social Services to include kinship care as a goal on the Service Plan.**

Finding #2 – 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

DRAFT

BARRIERS TO KINSHIP CARE IN VIRGINIA

Findings and Recommendations

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 2-1-1 VIRGINIA, a telephone and Internet service that provides access to services from a health and human services database. 2-1-1 VIRGINIA 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.

Recommendations

1. **Receive information from local departments of social services, the Area Agencies on Aging (AAAs), community services boards (CSBs), and community action agencies on ways to improve 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).**
2. **Receive information from the Departments for the Aging, Social Services and the AAAs on ways to provide information and referrals to relative caregivers.**
3. **Request the Department of Social Services continue pursing cost efficiencies in the operation of 2-1-1 VIRGINIA, the statewide information and referral system, and investigate savings of consolidation of existing network resources such as the Grandparents Caring for Grandchildren Guide and Senior Navigator.**
4. **Request the Department of Social Services develop a plan for using 2-1-1 VIRGINIA to serve as a resource tool for juveniles released into the community in assisting them transition back to the community.**

Finding #3 – 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 Finding #1. 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% of local departments placed a child in an overly intensive or restrictive service. As noted in the JLARC report, it is more than 4 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

DRAFT

BARRIERS TO KINSHIP CARE IN VIRGINIA
Findings and Recommendations

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 by the Department.

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, families deserve to be treated with dignity and respect, families can make well-informed decisions about keeping their children safe when supported, family involvement in decision making improves outcomes, and 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.

Recommendations

1. **Request the Department of Social Services move forward with the Custody Assistance (formerly Subsidized Custody to a Relative program).**
2. **Request the Department of Social Services modify Virginia's existing policies and guidelines to address this issue.**
3. **Request the Department of Social Services create a training program to child service and social service workers to address this issue.**
4. **Request the Department of Social Services develop educational materials comparing the cost of providing kinship care services to the family versus therapeutic foster care, residential treatment or even the cost of incarceration. The benefits and positive outcomes experienced by children who are placed with family members will also be included.**

Finding #4 – 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.

DRAFT

BARRIERS TO KINSHIP CARE IN VIRGINIA

Findings and Recommendations

In an informal kinship care arrangement, the child is not in the custody of a local department of social services. Informal kinship care refers to the lack of child welfare agency involvement, not the lack of permanency.

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

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.

Finding #5 – 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, both offenses have lifetime look-back periods. 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.

Recommendations

1. **Amend § 63.2-900.1 of the *Code of Virginia* (the Kinship Foster Care section) to allow for specific exceptions to the barrier crime provisions for approval of kinship care placements for misdemeanor offenses if 10 years have elapsed since conviction and for felony drug possession if 20 years have elapsed since conviction. Such exceptions will apply only to kinship care placements and not apply to any crimes involving abuse, neglect, or moral turpitude of a minor.**

DRAFT

BARRIERS TO KINSHIP CARE IN VIRGINIA
Findings and Recommendations

Recommendations (cont.)

2. **Request the Virginia Code Commission evaluate Virginia's barrier crime statutes in the *Code of Virginia* and offer recommendations which will make provisions consistent, as well as reduce existing gaps in the statutes.**

ADDITIONAL FINDINGS

To be discussed at the November 3, 2010 Kinship Care Advisory Group meeting

Finding # 6 – 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*.

Finding # 7 – 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.

DRAFT