

[Family Services Legislation, July 2020](#)

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This broadcast provides information for local departments of social services (LDSS) regarding changes to Adoption, Child Protective Services (CPS), Foster Care, and Resource Family laws effective July 1, 2020. A brief summary of each bill and links to the legislation that passed the 2020 Session of the Virginia General Assembly appear below. LDSS staff should access the links provided to review the entire content of the legislation.

The Division of Family Services (DFS) is revising Adoption, CPS, Foster Care, and title IV-E guidance to reflect these legislative changes. Effective January 1, 2019, state law required state agencies to post guidance documents on the Virginia Town Hall website and in the Virginia Register for a 30-day public comment period prior to finalization as part of the Administrative Process Act. DFS is committed to providing guidance to the LDSS regarding implementation of this legislation as quickly as possible while complying with this additional requirement. Transmittal training which reviews the guidance addressing these changes is currently underway.

Adoption

[House Bill \(HB\) 94](#) amended and reenacted § 63.2-1202 of the Code of Virginia by adding that a legal custodian of a child being placed for adoption, and any other named parties in pending cases in which the custody or visitation of a child is at issue, will be entitled to proper notice of any adoption proceeding and an opportunity to be heard.

[HB 721](#) amended and reenacted § 16.1-283.1 of the Code of Virginia by adding that a child's birth parent or parents, whose rights were involuntarily terminated, may enter into a Post-Adoption Contact and Communication Agreement with the child's pre-adoptive parent or parents.

Child Protective Services

[HB 287](#) amended and reenacted § 63.2-1514 of the Code of Virginia by changing the retention time for records of unfounded Child Protective Services investigations from one year to three years.

[HB 778](#) and [Senate Bill \(SB\) 412](#) amended and reenacted § 63.2-1506 of the Code of Virginia by changing the completion time frame for family assessments from 45 days to 60 days.

[HB 904](#) amended and reenacted § 63.2-1509 of the Code of Virginia by adding any athletic coach, director, or other person 18 years of age or older employed by or volunteering with a public sports organization or team to the list of mandated reporters of child abuse and neglect.

[HB 1006](#) and [SB 706](#) amended and reenacted § 63.2-1506.1 of the Code of Virginia by changing the name of the sex trafficking assessment to the human trafficking assessment and allowing local departments of social services conducting human trafficking assessments to interview the alleged child victim or their siblings without the consent of and outside the presence of the child's or sibling's parent, guardian, legal custodian, other person standing in loco parentis, or school personnel.

Foster Care

[SB 156](#) and [HB 400](#) added the Fostering Futures Program to Virginia Code. SB 156 and HB 400 added language to allow the continuation of Court Appointed Special Advocates and appointment of guardians ad litem for youth 18 and older who remain in care pursuant to Fostering Futures and added petitions filed for review of agreements and case plans for youth in Fostering Futures. SB 156 and HB 400 outlined the requirements for the review of Voluntary Continuing Services and Support Agreements (VCSSA), the approval of case plans, and court hearings and administrative reviews for youth in Fostering Futures. SB 156 and HB 400 also described the purpose and intent of the Fostering Futures program, defined key terms and eligibility requirements for the Fostering Futures program, and outlined requirements that must be included in the VCSSA for youth in Fostering Futures. SB 156 and HB 400 outlined the process for termination of the VCSSA and the process for appeals of termination for youth in Fostering Futures.

[SB 178](#) and [HB 933](#) clarified that transfer of custody to relative can include fictive kin to establish eligibility for the Kinship Guardianship Assistance Program (KinGAP). SB 178 and HB 933 corrected the definition of “foster home” by replacing the word “licensed” with “approved.” SB 178 and HB 933 expanded the definition of “relative” to include fictive kin in kinship care and KinGAP.

[SB 472](#) required LDSS, when not petitioning for TPR, to include in the petition for permanency planning hearings, a description of why they are not filing for termination of parental rights (TPR) and a description of the reasonable efforts made towards reunification or transfer of custody, for children in their custody for 15 months out of the last 22 months. Additionally, they must provide information to the child’s parent regarding the parent’s option to voluntarily terminate parental rights when reunification is not the case plan goal.

The bill further required:

- DSS to promulgate regulations:
 - establishing clear guidance for acceptable reasons to not file for TPR;
 - requiring LDSS to consult with the Commissioner or designee regarding case planning for children who have been in the agency’s custody for 12 months and for who reunification remains a goal;
 - requiring LDSS to conduct independent living needs assessments and develop transition plans within 30 days of a child in foster care reaching 14 years of age or within 30 days of a child who is 14 years of age or older entering foster care and update those plans annually;
 - requiring LDSS to report to the Commissioner of DSS all instances in which a petition for TPR has not been filed for a child in the custody of the agency for 15 months; and,
 - requiring the Commissioner to compile the information from the LDSS, regarding not filing for TPR, into a report and use the report to establish a training program to educate LDSS regarding common errors when declining to file a petition for TPR.
- DSS to establish clear guidance documents for LDSS explaining the process through which a parent may voluntarily terminate parental rights and how that information should be relayed to the parent.

- the Commissioner to establish a workgroup to review the feasibility and costs of establishing a standard for supervisory spans of control to govern how many caseworkers a foster care supervisor may oversee.

[HB 1301](#) established the Office of the Children’s Ombudsman, which is charged with reviewing and monitoring the actions of the VDSS, LDSS, licensed child-placing agencies (LCPA), and child-care institutions. Additionally, the Code of Virginia §§ 2.2-438 through 2.2-448 defined specific terms used in these sections; created guidelines for the establishment, appointment, and removal of the Ombudsman; and outlined the requirements of the office, such as the mandatory training, the investigation of complaints, the notification of safety concerns, individuals authorized to make complaints, the powers and investigatory authorities of the Ombudsman, the Ombudsman’s access to information, the confidentiality of records, the report of findings by the Ombudsman, and penalties for false reports. The Office of the Children’s Ombudsman is separate from VDSS and under the authority of the Office of the Governor, where the appropriation for this office is allotted.

[SB 275](#) specified that the provisions of the Code of Virginia relating to public school enrollment of children placed in foster care apply to any pupil who was in foster care when they reached age 18 but has not yet reached age 22.

[HB 436](#) clarified that the hearing is to be held and the written finding is to be made within 15 days of the filing of a pleading or affidavit by a party to a child custody proceeding, if that party is alleging that the health, safety, or liberty of a party or child would be jeopardized by the disclosure of identifying information, in relation to the Uniform Child Custody Jurisdiction and Enforcement Act Affidavit.

Resource Family

[SB 1025](#) requires that a waiver of training requirements necessary for the approval of a kinship foster parent be granted upon determining that training requirements are a barrier to placement with the kinship foster parent and that such placement is in the child's best interest. The bill prohibits local boards from requiring that a child be removed from the physical custody of a kinship foster parent during such approval process, provided that placement with the kinship foster parent remains in the child's best interest. The bill requires the Department of Social Services to (i) develop a training program that is tailored to persons seeking approval as a kinship foster parent, (ii) develop a document that provides comprehensive information regarding kinship foster care, and (iii) provide training to local boards regarding the process through which a person may be approved as a kinship foster parent without requiring removal of the child from the physical custody of such person.