

Achieving Permanency for Children

Placement with Relatives

Overview of Custody Assistance Option
CSA Conference

June 6, 2012, Roanoke, VA

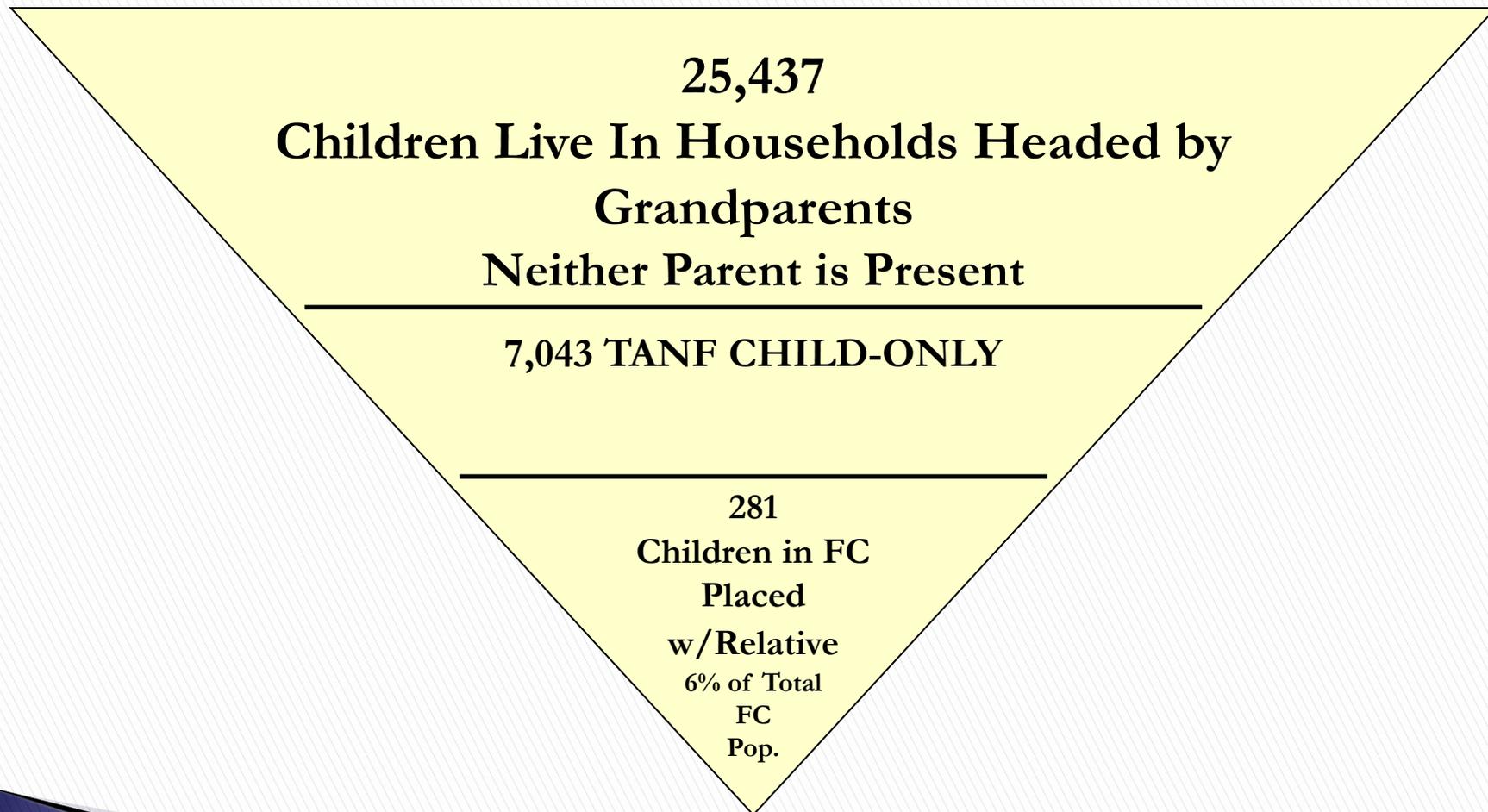
Objectives

- ▶ Identify some benefits of relative placement
- ▶ Discuss all Permanency options for children in foster care
- ▶ Provide an overview to custody assistance
- ▶ Outline LDSS and CSA responsibilities and requirements for custody assistance
- ▶ Discuss executing the Custody Assistance Agreement

KEY LEGISLATION

- ▶ House Bill 718, passed in the 2010 General Assembly Session helps to achieve the State's goal to increase the safe and permanent placement of children with families to reduce the number of children in foster care by 25% by 2020.

Virginia Children Living With Relatives



Benefits of Children Living Permanently with Relatives

- ▶ In many instances, relative placement preserves the continuity of care, relationships, culture, and environment that are essential to the overall well-being of the child
- ▶ Relative placement maintains the family system as day-to-day decisions continue to be made by adults that the child already knows and understands to be their family
- ▶ The child continues to participate in family celebrations, traditions, vacations and activities

Benefits of Children Living Permanently with Relatives

- ▶ Preserves existing connections and relationships with familiar adults for the child through relative placement
- ▶ Relative placement promote timely reunification, and placement stability, as children and youth placed with relatives experience fewer placement disruptions than children placed with non-related foster parents.

When Child Welfare Becomes Involved

Informing Relatives of Options

- ▶ When LDSS determines the child will not return home to his parents, there are four options for prospective relative providers that LDSS shall discuss with interested relatives:
 - Court could transfer custody to relatives
 - Relatives could become fully approved resource parents with LDSS maintaining custody of child
 - Relatives could adopt the child, if the court terminates parental rights of child's birth parents
 - Court could transfer custody of child to relatives who are fully approved resource parents. Relatives may receive custody assistance, if child and relative are eligible

Relatives Assuming Custody of Child – Option #1

- ▶ When transfer of custody to a relative is determined to be in the best interest of the child and a relative has been identified who is willing and appropriate to care for the child, the LDSS shall first ensure that the placement with the relative is safe and that the relative will keep the child safe from any further maltreatment

Relatives Assuming Custody of Child

- ▶ LDSS worker shall complete Criminal background check, including central registry search on all adults residing in home
- ▶ LDSS worker should discuss with the relatives the option of transferring legal custody
- ▶ Impact to the child of remaining in foster care. The longer the child spends in foster care, the potential for traumas and difficulty forming strong relationships increases.

Relatives Assuming Custody of Child

- ▶ LDSS worker discusses the financial impact of relatives assuming legal custody
- ▶ LDSS worker discusses availability of family, health insurance, community, government, and other resources to help meet child's needs.
- ▶ Prior to transferring legal custody, the service worker should assist the relatives in accessing and initiating services, including filling out forms to establish eligibility for services.

Relatives Becoming Foster Parents

– Option #2

- ▶ The service worker should discuss with the relatives the differences between assuming custody of a child in foster care and becoming foster parents for that child
- ▶ Becoming foster parents includes much more structured involvement from the child welfare system because LDSS holds legal custody of the child
- ▶ The requirements to become a foster parent are the same for a relative as a non-relative

Relatives Adopting Child – Option #3

- ▶ Relatives may become the adoptive parent of the child if the parental rights of the birth parents have been terminated
- ▶ Adoption is a more permanent family connection for the child than transfer of custody
- ▶ The service worker should discuss with the relatives some of the changes that occur when they adopt the child

Overview of Custody Assistance – Option #4

Custody Assistance Overview

- ▶ Custody Assistance is a new option for the child or youth in foster care, authorized by the Fostering Connections Act 2008.
- ▶ Custody assistance provides financial assistance and/or services that help the prospective relative custodians assume legal custody and/or meet the needs of the child or youth after legal custody is transferred that they have difficulty providing without custody assistance.

Custody Assistance Overview

- The permanency goal of Custody Transfer to Relatives is determined to be in the child's or youth's best interest.
- This option is used only when Return Home and Adoption are not appropriate.
- ▶ The purpose of custody assistance is to provide a permanent home for the child or youth and to prevent and eliminate the need for foster care placement.

Custody Assistance Overview

- ▶ Absent custody assistance, the child or youth in all likelihood will remain in foster care until “aging out” of the system.
- ▶ *The provision of such foster care services for a planned period of time prevents or eliminates the need for foster care placement.*

Who is a Relative?

- ▶ In the VA Foster Care Guidance to achieve permanency through the option for Custody Assistance, “Relative” is defined as

“anyone related to the child by blood, marriage, or adoption.”

Custody Assistance Requirements

- ▶ The child or youth shall be in foster care as a result of:
 - Commitment to the LDSS by any court of competent jurisdiction; or
 - Placement by the LDSS through a noncustodial foster care agreement where legal custody remains with the parents or guardians; or
 - Entrustment to the LDSS by the birth parents or guardians.

Requirements (cont)

- ▶ Regardless of how the child or youth enters foster care, there shall be a judicial determination that continuation in the home from which the child was removed would be contrary to the welfare of the child.

Eligibility Highlights

The Child...

- ▶ Must be eligible for Title IV–E or CSA Funds for foster care maintenance.
- ▶ Must be in continuous state/local custody at least six (6) months.
- ▶ Child's custodian must be a relative that meets the definition.
- ▶ Must be with the relative(s) in continuous placement at least six (6) months.
- ▶ Must rule out the child's permanency goals of Return Home and Adoption.

Eligibility Highlights

The Relative Caregiver...

- ▶ Must obtain legal custody.
- ▶ Must have had the child in his/her continuous foster care placement at least (6) six months.
- ▶ Must be an approved foster parent.

Overview

- ▶ When the service worker determines that all eligibility requirements for custody assistance are met, the worker and prospective relative custodian assess the child's needs and the family circumstances regarding custody assistance.
- ▶ When the child or youth appears to have needs that cannot be met through other resources, the process for assessing and funding specific needs of the child or youth is different based on whether or not the child or youth is eligible for Title IV-E funds.

Overview: IV-E & Non-IV-E Eligible Child or Youth

- ▶ The child or youth retains the same status as in foster care as either a Title IV-E eligible child or youth or a non-Title IV-E eligible child or youth.
- ▶ The two processes adhere to federal Title IV-E requirements and CSA statutory requirements respectively.

Overview: Title IV–E Eligible Child or Youth

- ▶ Title IV–E custody assistance payments may include basic maintenance, enhanced maintenance, and/or non–recurring expenses of the prospective relative custodians that are directly related to the transfer of legal custody.
- ▶ The LDSS shall refer the child or youth to the FAPT where the child or youth and the prospective relative custodians reside to assess service needs.

Overview: Non-Title IV-E Eligible Child or Youth

- ▶ The LDSS shall refer the child or youth to the FAPT where the prospective relative custodians reside to assess service needs.
- ▶ CSA services may also include: a stipend to address the child's or youth's needs for housing, food, clothing, transportation, and/or personal incidentals; a stipend for additional daily supervision and support; and non-recurring expense payments for the prospective custodians to obtain legal custody.

Overview (cont)

- ▶ For both the Title IV–E eligible and non–Title IV–E eligible child and youth, the LDSS shall enter into a binding written agreement with the prospective relative custodians on the general provisions required for custody assistance.
- ▶ The custody assistance agreement shall be signed prior to the legal transfer of custody. The LDSS should request that the IFSP be approved by the CPMT prior to custody transfer.

Overview (cont)

- ▶ The LDSS petitions the court to legally transfer custody of the child or youth from the LDSS to the prospective relative custodians.
- ▶ Once custody is legally transferred, Federal Title IV-E payments are provided as delineated in the signed custody assistance agreement.
- ▶ CSA services are provided as delineated in the IFSP approved by the CPMT.

LDSS & CPMT Responsibilities

LDSS Responsibilities for Custody Assistance

- ▶ The LDSS that has custody of the child prior to transfer is responsible for custody assistance regardless of where the family and child reside for the duration of the custody assistance agreement.

LDSS RESPONSIBILITIES for Custody Assistance

Title IV–E eligible child or youth

- ▶ The LDSS maintains its responsibilities when the relative custodians and the child or youth move to another jurisdiction in Virginia or move to another state. (*Fostering Connections Act*)

LDSS RESPONSIBILITIES for Custody Assistance

Non-Title IV-E eligible child or youth

- ▶ When the relative custodians and the child or youth move to another jurisdiction in Virginia, the LDSS maintains its responsibilities.
- ▶ When the relative custodians and the child or youth move outside of Virginia, the LDSS terminates the custody assistance agreement as specified in the custody assistance agreement.

CPMT Responsibilities

- ▶ The FAPT where the relative custodians reside is responsible for assessing the needs of the child or youth and providing CSA services when the relative custodians reside in Virginia.
- ▶ When the relative custodians move outside of Virginia, the CPMT is no longer responsible for services. The relative custodians may apply for services in their new state of residence in accordance with the policies and procedures of that state.

LDSS Discuss Custody Assistance with Prospective Relative Custodian and Birth Parent

Discuss with Relative Custodian

- ▶ The requirement that the child remain in the care and supervision of the prospective relative custodian designated by the court.
- ▶ The process for requesting custody assistance from the LDSS.
- ▶ The payments and services that may be available, including the process for assessing needs and documenting agreed upon terms.
 - For the Title IV-E eligible child or youth and
 - For the Non-Title IV-E eligible child or youth

Discuss with Relative Custodian

- ▶ The process for signing a binding custody assistance agreement with the LDSS that delineates the general provisions required for custody assistance.
- ▶ The effective date of the custody assistance agreement is the date the judge signs the court order transferring legal custody of the child or youth from the LDSS to the relative custodians.

Discuss with Relative Custodian

- ▶ The process for requesting changes in financial assistance and/or services at any time when there are changes in the child's or youth's needs and/or the family circumstances of the relative custodians.
- ▶ When and how Title IV-E custody assistance payments may be suspended and/or terminated
- ▶ When and how the custody assistance agreement is terminated.
- ▶ Referral to the local CSA for information on CPMT policies for suspending and/or terminating payments and for appeals.

Discuss with Relative Custodian

- ▶ The role of the FAPT in developing the IFSP and in making service and funding recommendations for CPMT approval, consistent with CPMT policies
- ▶ When and how custody assistance may be suspended and/or terminated

Discuss Custody Assistance with Birth Parents

- ▶ Birth parents should be an integral part of the process in determining what is in the child's best interest whenever possible. The service worker shall consult with the birth parents on the custody assistance option.
- ▶ All diligent efforts shall be made to contact both birth parents and shall be documented in OASIS contacts
- ▶ However, the consent of the birth parents is not required for custody transfer to a relative and for the provision of custody assistance

Siblings of eligible child or youth

- ▶ LDSS shall make diligent efforts to place the child or youth with siblings when this is in the best interests of the children or youth.



Reviewing, Assessing, Negotiating and Executing Custody Assistance

Reviewing Request for Custody Assistance

- ▶ After the LDSS determines the child and prospective relative custodians are eligible for custody assistance, the LDSS should provide the “Request for Virginia Custody Assistance” form to the prospective relative custodians for completion.
- ▶ Letters, other written requests, and verbal request for custody assistance do not constitute an official request and do not initiate the time frames for processing

Reviewing Request for Custody Assistance (cont)

- ▶ The LDSS should review the information that the prospective relative custodians provide on the “Request for Virginia Custody Assistance” and clarify any information as needed

- ▶ The LDSS shall enter the information into the “Worksheet for Assessing and Negotiating Virginia Custody Assistance”
 - The worksheet calculates a monthly average for:
 - Total financial resources the prospective relative custodians have to support the child
 - Total expenses for the child
 - Any remaining funds prospective relative custodians have available to care for child, after subtracting child’s total expense from total financial resources available to child

Reviewing Request for Custody Assistance (cont)

- The LDSS should provide a copy of the completed worksheet to the FAPT for their consideration when the LDSS refers the child or youth to the FAPT for services.
- The LDSS and prospective relative custodians should begin the assessment and negotiation process as quickly as possible

Assessing and Negotiating



- ▶ Negotiation focuses on what assistance is needed now and in the immediate future to help meet the child's needs.
- ▶ The process is designed to provide consistent, fair, and equitable treatment of requests.
- ▶ The goal is not to minimize or maximize the amount of custody assistance.

Assessing family circumstances

- ▶ The LDSS should begin the assessment and negotiation process by facilitating conversations with the prospective relative custodians about:
 - The needs of the child or youth
 - The family circumstances of the prospective relative custodians, and

Assessing family circumstances

- The types of assistance they feel they need to obtain legal custody of the child, meet the child's or youth's needs, and prevent the child or youth from returning to foster care.
- Do they anticipate any changes in the near future that will increase/decrease the financial resources they have available to support the child

Assessing Family Circumstances

- Whether they can spend any funds differently to help meet the needs of the child.
- ▶ These conversations should be with the relative custodians of both the Title IV–E eligible and non–title IV–E eligible child or youth.

Assessing health insurance needs of child or youth

- ▶ The LDSS and prospective relative custodians should identify health insurance coverage for the child or youth. The prospective relative custodians may:
 - Add the child to their health insurance policy.
 - Add the child to their health insurance policy and use Medicaid as secondary health insurance if the child is eligible.
 - Use Medicaid or FAMIS if the child or youth is eligible. The LDSS shall inform the prospective relative custodians whether the child is eligible for Medicaid in relation to the custody assistance agreement.

Health Insurance Title IV–E Custody Assistance

- ▶ The child or youth who receives Title IV–E custody assistance maintenance payments is categorically eligible for Medicaid in the state where the child or youth reside.
- ▶ Medicaid shall be included in the custody assistance agreement.

Health Insurance non-Title IV-E Custody Assistance

- ▶ The non-title IV-E eligible child or youth is not automatically eligible for Medicaid.
- ▶ To determine the child's eligibility for Virginia medical assistance, the prospective relative custodians submit a Medicaid application to the LDSS with which they entered into the custody assistance agreement.

Assessing Resources to Defray Costs

- ▶ Prior to referring the child or youth to CSA for services, the LDSS should determine whether the needed services and/or supports can be paid through other sources.
- ▶ When other resources are appropriate, available and accessible, they shall be utilized prior to considering Title IV–E custody assistance payments or CSA services.

Assessing Basic Maintenance

- ▶ For the non-IV-E eligible child, the LDSS, in collaboration with the prospective relative custodians, submits to the FAPT the decisions about basic stipend payments and the agreed upon terms on the “Information for CSA Custody Assistance Form.”
- ▶ The FAPT develops an IFSP that specifies the basic stipend payments and terms for CPMT approval. CSA pool funds are then used for making basic stipend payments specified in the IFSP approved by CPMT.

Assessing Additional Services and Supports

- ▶ When the LDSS determines there are indications that the child may require additional supervision and support from the prospective relative custodians, the LDSS shall use the “Virginian Enhanced Maintenance Assessment Tool” (VEMAT) to assess the behavioral, emotional, or physical/personal care needs of the child

Referring Title IV–E Child or Youth to FAPT

- ▶ The FAPT identifies the complement of services needed to meet the unique strengths and needs of the child or youth and the family consistent with CPMT policies.
- ▶ Services specified in an IFSP and approved by the CPMT are provided.

Referring Non-Title IV-E Child or Youth to FAPT

- ▶ The LDSS shall refer the non-Title IV-E eligible child or youth to the FAPT in the locality where the prospective relative custodians reside for CSA services.
- ▶ The LDSS shall comply with all state and local policies for referral and in assisting the FAPT in assessing and identifying the complement of services to be provided.

Referring Non-Title IV-E Child or Youth to FAPT

- ▶ CSA services for the non-Title IV-E child or youth may include:
- ▶ Stipend to address the child's or youth's needs for housing, food, clothing, transportation, and/or personal incidentals.
- ▶ Stipend for additional daily supervision and support.

Referring Non-Title IV-E Child or Youth to FAPT

- ▶ Nonrecurring expenses of the prospective relative custodians that are reasonable, necessary, and directly related to obtaining legal custody of the child or youth.
- ▶ CSA services

Executing Custody Assistance Agreement

Executing Agreement

This agreement shall be signed prior to the legal transfer of custody. (*Per the Fostering Connections Act, 2008 and Federal Program Instructions.*)



Executing Agreement Title IV–E

Title IV–E child or youth the LDSS shall use the “Virginia Custody Assistance Agreement” form. This agreement includes:

- ▶ The specific terms agreed upon for basic maintenance, enhanced maintenance, and/or non-recurring expense payments, including the type, duration, and the amount of assistance to be provided.

Executing Agreement Title IV-E

- ▶ The process for LDSS referring the child or youth to the FAPT.
- ▶ The process for requesting changes when the needs of the child or youth and/or the circumstances of the relative custodians change.
- ▶ Circumstances for suspending and terminating payments.
- ▶ Circumstances for terminating the agreement.

Executing Agreement Non-Title IV-E

Non-Title IV-E child or youth the LDSS shall use the “Virginia Custody Assistance Agreement for non-Title IV-E Children and Youth” form. This agreement includes:

- ▶ The process for LDSS referring to the FAPT where the relative custodians reside to assess service needs. All services, including custody assistance stipends, must be reviewed by the FAPT.

Executing Agreement Non-Title IV-E

- ▶ The process for requesting changes when the needs of the child or youth and/or the circumstances of the relative custodians change.
- ▶ Circumstances when the LDSS will inform the CPMT's designee that the CPMT should consider suspending and terminating CSA services.
- ▶ Circumstances for terminating the agreement.

Executing Agreement Non-Title IV-E

- ▶ Statement that when the relative custodians move:
 - To another jurisdiction in Virginia, the agreement shall remain in effect.
 - Outside of Virginia, the agreement shall be terminated as specified in the custody assistance agreement.

Making Title IV–E Payments

- ▶ Title IV–E custody assistance payments and services shall only be provided to relative custodians who have:
 - Entered into a written, signed, and dated custody assistance agreement with the LDSS
 - A signed court order legally transferring custody of the child or youth from the LDSS to the relative custodians

Annual Affidavit

- ▶ Relative custodians agree in the custody assistance agreement to submit an annual affidavit to the LDSS no later than the anniversary date that the custody was legally transferred
- ▶ The LDSS shall use the “Virginia Annual Affidavit for Custody Assistance”

Suspending Payments

- ▶ For the title IV–E eligible child or youth, the LDSS may suspend enhanced maintenance payments paid through title IV–E funds. The LDSS shall notify and collaborate with the CPMT, or its designee, that is providing services for the child and/or family, when applicable. The LDSS shall keep informed of CPMT decisions and actions.
- ▶ For the non–Title IV–E child or youth, the LDSS shall notify and collaborate with the CPMT, or its designee, that the providing services for the child and/or family, when applicable. The LDSS shall keep informed of the CPMT decisions and actions.

Terminating Payments (highlights)

- ▶ Title IV–E basic and enhanced maintenance payments shall only be terminated based on terms specified in the custody assistance agreement or addendum, including:
 - Agreed upon time period ends for the payments; or
 - The relative custodian request in writing that the services and/or payments end; or
 - The relative custodians continue to not comply with the annual review process, including failure to respond to suspended payments and diligent efforts by the LDSS; or
 - LDSS determines the relative custodian are no longer providing any financial support for the child or youth.

Terminating Agreements (highlights)

- ▶ The custody assistance agreement shall only be terminated, as specified in the CA agreement, when the LDSS determines that any one of the following circumstances occurs:
 - Youth reaches age of 18 years, unless the LDSS determines the youth has a mental or physical condition that warrants continuation of custody assistance beyond the age of 18 years.

Terminating Agreements (highlights)

- ▶ The agreement is terminated when the relative custodians:
 - Adopts the child or youth subsequent to the custody assistance agreement and the transfer of legal custody.
 - Request in writing that the agreement ends.
 - Fail to comply with the annual review process following notification of termination of payments

Questions and Comments

Legal Frame -Virginia Law

Code of Virginia §63.2-900.1 (2004):

Requires the Board (VDSS) to determine whether the child has a relative who is eligible to become a kinship foster parent.

The kinship foster parent shall be eligible to receive payment at the full foster care rate for the care of the child.

VDSS Contact for Further Information

- ▶ Paul McWhinney, Deputy Commissioner–Programs; paul.mcwhinney@dss.virginia.gov; (804) 726–7590
- ▶ Jack Ledden, Director–Division of Family Services; jack.ledden@dss.virginia.gov; (804) 726–7501
- ▶ Therese Wolf, Manager–Permanency Unit; therese.wolf@dss.virginia.gov; (804) 726–7522
- ▶ Lyndell Lewis, Lead Staff–Custody Assistance; lyndell.lewis@dss.virginia.gov; (804) 726–7531