The Roanoke Times

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Virginia social services’ plentiful rules, lack of central authority ensure plenty of heartbreak

By Alison Graham

The morning the child left, her foster mom picked up a cellphone and started recording. She told the girl to treat the video like a diary.

“I’m feeling sad right now because I don’t get to see you guys,” the 9-year-old says in the video. “You guys are my favorite people in the world. I wish I could just stay. ... I hope God can make us stay here.”

A social worker picked up the little girl from school later that day in February 2018. Her foster mother hasn’t seen her since.

She believes the removal was retribution for repeatedly asking her local social services agency to allow the child to see her siblings, a request she said the agency refused.

Virginia law and state social services policy require local departments to encourage sibling contact or communication, unless it’s not in the best interest of the child. The foster mom claims the agency knowingly violated this requirement.

That morning, after almost a year of living together as a family, the mom tried to explain to the girl what was happening. But she just kept asking why.

“She straight up told us, ‘This is worse than when I was taken from my parents because my parents would hurt us and you would never hurt me.’ ”

Because Virginia operates a decentralized social services system, employees at the local level are rarely held accountable for the life-changing decisions they make for Virginia’s families.

The Joint Legislative Audit and Review Commission has detailed the Virginia Department of Social Services’ oversight problems for nearly 40 years. Efforts at the state level are underway to correct the issue, but progress is slow.

A yearlong investigation by The Roanoke Times shows failures at Virginia’s 120 local departments can go unaddressed for years because the state department does not exercise authority to enforce its own policies. As a result, Virginia families, foster parents, children and social services employees can be left with nowhere to turn when problems arise in their local departments.

The girl’s foster mom spoke to The Roanoke Times on the condition her name not be published. She said she fears her local social services agency, located in the state department’s northern region, would retaliate against her with legal action for sharing the story because she, like all foster parents, signed a confidentiality agreement. The girl’s identity is being protected because she is still a foster child.

Since her foster child was removed, the foster mom has appealed to legislators, the governor’s office, the state social services department, the county’s board of supervisors and the social services commissioner to convince the local agency to reverse its decision.

Former state Del. Chris Peace said he remembers meeting with the woman to hear her story. He said he wasn't able to learn from the agency's perspective what happened.

"Her case was active and complex," he said. "If I remember correctly, there were some local agency issues."

So far, no one has been able to convince the local department or its director to change course. The foster mom said it's too late. With each day, it becomes less likely she'll see the child again.

“They have no authority to force the local agencies to comply with state policies,” she said. “Then why do we even have state policies? If the local agencies don’t have to comply, then the policies are just meaningless.”

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They started as foster parents by taking respite placements, where foster children stay for just a few days to give the parents a break or before they are placed in a more permanent home.

In March 2017, the couple received a call asking if they would be interested in a pre-adoptive placement, meaning parental rights had been terminated and the little girl soon would be up for adoption.

“We almost said no, because it sounded like maybe we couldn't handle it,” she said. “But we fell into a family routine really quickly.”

About three weeks after the child moved in, the local agency called again and asked if the family could take her brother for an emergency respite. He stayed for a couple of days and his sister was overjoyed to be with him again. The foster parents asked if he could stay with them permanently, but the agency said it wasn’t possible. He was removed and placed into a new foster home.

Later, they tried to plan a visit with him, but the foster mom said the agency told them the director ordered no further contact between any of the siblings.

The little girl constantly asked about them. She bought them presents and wrote them notes. At a doctor’s appointment, she asked, “Do you think my sister’s foster parents take her to the doctor when she gets sick?”

The agency rarely scheduled phone calls, which had to accommodate each foster parent's and the social worker’s schedule. In a team meeting, the foster mom said the girl’s therapists told the agency sibling contact would be beneficial. Eventually, the mom’s foster care licensing agency, a private group that trained and licensed her as a foster parent, told her to stop asking or the child would be removed, she said.

Virginia social services policy encourages local departments to create a plan that includes frequent visits or communication with siblings and to consider the wishes of the foster child in this plan. The policies say sibling contact should occur unless there are concerns that it would not be in the child’s best interest.

Peace, who works as a family law attorney in Mechanicsville, said there are cases when sibling contact is not advisable. He said children, often depending on their gender or age, process trauma differently. These differences can be seen within sibling groups and some children act out that trauma on their siblings.

"Every case is different, every family is different," Peace said. "The reason is often to do with the child's or the sibling's safety."

The foster mom said she saw how well the girl and her brother got along when he spent a few days at her house. Most importantly, she witnessed how not being able to see her siblings negatively affected the girl.

In February 2018, the foster parents received a notice about a foster care review hearing, which are held in local courts to evaluate the foster child’s plan for a permanent home and progress made in their case. The local agency told the foster mom not to attend, she said.

Virginia law and state social services policy say foster parents should be encouraged to attend these hearings and speak if the judge requests it.

Instead, the mom called the guardian ad litem, an attorney appointed to represent the child and make independent recommendations in their best interest. She left a message with the attorney’s assistant and asked her to bring up the sibling contact issue in court.

The foster mom said she never spoke to the guardian ad litem, but two days later she received a call from social services that her foster daughter would be placed in a new home.

Before a child is removed, Virginia social services policy requires agencies to hold a family partnership meeting attended by the foster parents and the child's social worker when a change in the child’s foster care placement is planned. The meeting is meant to explore all possible options to support the stability of the placement, according to the state’s foster care manual.

The foster mom said she did not attend a meeting before the child was moved to a new home.

Stability in foster care placements is a nationally recognized best practice. The Annie E. Casey Foundation, a philanthropic organization dedicated to child welfare research, consistently says that foster children who experience multiple placements have a much higher risk of developing behavioral problems and struggling in school.

A joint report from the foundation and the U.S. Department of Health and Human Services says, “While there may be times when a new placement setting will be in the best interest of the child, it is generally important for states to continue to do as much as they can to keep placement setting counts to a minimum.”

“We both obviously were devastated,” the foster mom said. “And I went to therapy for a couple of months afterward trying to process what happened. That didn't help so I just kind of grieved my own way. But my husband won't even talk about it if I bring it up. He changes the subject. It really just broke his heart.”

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Virginia is one of nine states that uses a state-supervised, locally administered social services system, which creates a division between the state and local offices.

The Virginia Department of Social Services operates a central office in downtown Richmond and five regional offices in Henrico County, Roanoke, Abingdon, Warrenton and Norfolk.

Each regional office employs a director and support staff in each program area to assist local departments with policy questions or to advise them on particularly difficult cases.

There are 120 local departments tasked with providing benefits and services to local citizens. Every locality is required to operate an office, but some create joint offices. For example, Roanoke County and the city of Salem operate one social services office to serve residents in both localities.

Each local office is led by a director, who reports to a local board of social services. Local board members are appointed by city councils and boards of supervisors.

The mix of state and local authority creates a confusing bureaucratic system that can be difficult for employees, families and foster parents to navigate. The state’s central office, the regional offices, the locality’s governing body and the local social services boards all have a level of authority over a local social services department. But unclear lines of authority leave no one directly holding local departments accountable. And in the end, local directors are free to make decisions autonomously.

State watchdog JLARC has analyzed the state’s social services system at least three times and each report has pointed out the state’s lack of authority. In a 1981 report, JLARC said the department had been trying to “operationalize” the system since 1977. The commission interviewed local directors for the report.

“Who is in charge?” one director said. “With the present administrative structure there seems to be no final authority to resolve critical issues. Localities exercise autonomy and the regions seem helpless to deal with their behavior. The losers are staff in all areas of the department and the client.”

A JLARC report in 2005 said the same — the lack of oversight meant the state department had limited knowledge of whether local departments were complying with federal and state requirements.

In 2018, a JLARC report on the foster care system said, “VDSS has historically narrowly interpreted its supervisory responsibilities, which are set in statute, and past VDSS leaders have equivocated about the state’s ability to assertively supervise foster care services and hold local departments of social services accountable.”

The Roanoke Times spoke with more than a dozen local directors or social services employees who confirmed the regional offices do not have the authority to enforce policies.

“We have been through multiple reviews and though they may not have the ability to ‘enforce’ policies, my department takes their recommendations very seriously and will implement any policies and procedures that are provided,” Carroll County social services director Teresa Isom said in an email.

Other directors agreed.

“They have the authority to come in and say, ‘this isn’t how I would do it’ and they can encourage you to do it this way, but the locality doesn’t have to follow,” Bedford County social services director Andrew Crawford said. “The only thing a regional office can do is go to the commissioner with a problem.”

According to Virginia law, the state commissioner can fire any staff member employed by a local department, including the director. The commissioner also can direct local boards to remove children from unsafe foster care placements and intervene when local departments fail to provide foster care services. But the 2018 JLARC report noted that state social services staff could not recall a single instance where these powers had been used.

Cletisha Lovelace, a spokesperson for the state social services department, confirmed in an email that as of February, those authorities have never been exercised.

JLARC reports have said regional offices are a critical component to oversight because they provide more day-to-day monitoring than is possible for staff in Richmond or the commissioner.

Regional offices conduct quarterly and annual reviews of program areas in each local department, but the state does not have a system for following up on recommendations to ensure they’ve been implemented.

In 1981, JLARC staff said the state social services department needed to resolve organizational confusion and strengthen the regional offices.

More than 35 years later, the state board issued the same recommendation. In an investigative report, the board said the regional offices have very few staff who are responsible for an unworkably large region. Proper oversight would require more manpower.

But over the years, the state has done the opposite. The number of positions at regional offices has fallen, which has contributed to the lack of oversight, according to JLARC reports.

Regional staff members were scattered across the state in 16 district offices or their own homes until 1970, when the state created seven regional offices to help expand oversight for the newly implemented food stamp and Medicaid programs.

In 1980, the state social services department had 240 staff located in seven regional offices. Those staff members supported about 5,500 staff in local departments, at a ratio of one regional staff member for every 23 local workers. In 2005, 96 regional positions supported approximately 8,500 local staff, or one regional staff member for every 88 local workers, according to JLARC reports.

Today, 57 regional positions support about 11,000 local staff, or one regional staff member for every 193 workers.

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The Cracker Barrel children's menu said, “Draw yourself enjoying a big feast with your family!”

The 9-year-old girl drew herself with long blonde hair, red legs and blue eyes. She drew her mom the same, just a little taller. Her dad sported spiky blue hair and broad blue shoulders.

She picked up her red crayon and wrote her initials above the drawing of herself. But then, she scribbled it out. She wrote the first letter of her first name again, but this time, a new last initial — one that matched her foster parents sitting at the table.

The little girl had been in foster care for more than six months.

When she first arrived at her new home, she had constant meltdowns. They were over small things, like what her foster mom was cooking for dinner. She would fall on the floor and refuse to move or speak. She struggled to socialize or show emotion.

But soon, she got better. Her grades improved, her tantrums were fewer.

When the day came for her to leave, her foster mom struggled to explain. She told her it wasn’t always up to them what happens, that if they could have her stay, they would, that they were going to try to get her back, but it wasn’t their decision.

Now, the foster mom said she’s not sure her family will ever be able to take in another child.

“They're basically just asking foster parents in general to take on this huge emotional investment and we have no way of protecting ourselves,” she said. “We were pretty much told to shut up and get in line. There was no support or advocacy.”

The mom has since become active in suggesting legislation that could help fix the problem. She supports Montgomery County Democratic Del. Chris Hurst’s children’s ombudsman bill, which would create an independent office to investigate citizen complaints about the state and local social services departments. A similar bill was introduced by Sen. John Edwards, D-Roanoke, and passed the full House and Senate in 2008, but it was never implemented.

When Hurst reintroduced the bill last year, the House Appropriations subcommittee on Health and Human Resources voted 5-3 to pass it by for that session. He has introduced it again this year and the bill has passed the House of Delegates and the state Senate.

Last year, Sen. Bryce Reeves, R-Spotsylvania, introduced a foster care omnibus bill that implemented many of the recommendations from the 2018 JLARC report, including establishing a foster care caseload standard and creating a foster care health and safety director position.

The bill also enshrined into law an emergency regulation previously passed by the state board. The regulation allows the commissioner to take over a local department if it fails or refuses to provide foster care services or takes any action that poses a substantial risk to the well-being of a child.

But the regulation does not define when that step would be taken by the state. The commissioner said at a state board meeting in August he intends to keep the language vague because the department has never implemented something like this. The regulation would then become more specific in the procedure and could later be updated after the department learns more about how it will work.

But directors say leaving it up to interpretation could mean vastly different things when a new commissioner eventually takes the job.

JLARC reports for close to 40 years have said the state needs to define its policies and rules so they can be better enforced. “A complete failure to provide services is less likely than a failure to provide certain services or a failure to provide services to some children,” the 2018 report read.

For the Richmond-area foster mom, her case was a failure. She and her husband loved the little girl, helped her heal, helped her grow, until they lost her to another foster placement. The child lost her parents, then her siblings and the foster parents she grew to love.

“I could talk all day about how wrong it was, what they did to us, but that just pales in comparison to what they put her through,” she said. “For her, that was her entire life.”

The Roanoke Times

Feb. 29, 2020

Pittsylvania board member who raised questions ends up suspended by state

By Alison Graham

CHATHAM — Ron Scearce was the newest member of the Pittsylvania County Department of Social Services board when he strolled through the office handing out business cards in August 2017.

Soon after, he started receiving anonymous phone calls from unhappy department employees.

What followed over the course of the next 18 months would roil a divided Pittsylvania community. The ongoing debate about the work environment at the county’s social services department led to the firing of its director, Sherry Flanagan, who has filed a defamation and wrongful termination lawsuit against the county and Scearce. Four employees filed their own lawsuit three months later, claiming a hostile workplace and an unfair grievance procedure that ultimately led to what they described as forced resignations.

The turmoil also resulted in investigations into allegations of a toxic work environment at the department, first by the local social services board and later by state commissioner Duke Storen, that did not support that conclusion. Eventually, Scearce was temporarily suspended from the local board by the state board of social services, an unprecedented step by state officials denounced by the Pittsylvania County Board of Supervisors chairman, who charged overreach by the state board into local affairs.

At its heart, the events in Pittsylvania County centered on questions of oversight for local departments of social services. The conflicting roles of the state board, the social services commissioner, local board members, members of the board of supervisors and the local director came under scrutiny.

Virginia’s social services system has grappled with these questions for years. Pittsylvania County served as the latest example of what can happen when those questions continue to go unanswered.

In addition to the state and regional social services offices, oversight of a local agency comes from a local governing body and the local social services board. City councils and county boards of supervisors appoint members to a local social services board and review the annual budget for the department. These governing bodies also have the ability to suspend or remove any local board member for cause, according to state law.

Some boards — as in Pittsylvania County — are considered administrative boards, which means they provide direct oversight to the director and the department, according to the state’s local board member handbook.

Administrative boards are responsible for monitoring and reviewing the performance of a local department. The board in most cases also hires the local director and provides an annual performance review.

The local board member handbook does not provide specific protocols for engaging with citizens, hearing concerns or responding to them. Many local boards provide a period for public comment near the beginning of the meeting, but the handbook does not require it. Board members are instructed to serve as champions for citizens and represent those in need.

“Local board members perform work under the premise that an educated, engaged board is best prepared to represent and advocate for the community’s citizens,” the handbook reads.

But the handbook also specifically tells board members to “serve as a champion of the agency” and “enhance the public image of the LDSS,” while also being publicly accountable for local social services.

The contradictory directives can make it difficult for board members to determine whom they represent — the citizens or the agency.

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Scearce, who is also a member of the Pittsylvania County Board of Supervisors, said he was caught in the middle of confusing directives from the state about the nature of a local board member’s role.

He said he heard from more than 20 employees about their experiences working at the local social services department under Flanagan.

The Roanoke Times contacted half of these employees, but each declined to speak on the record for fear that Flanagan could retaliate against them.

“I just can't believe they’re still thinking that she's going to have some way to affect their life,” Scearce said. “I’ve never come across anything like that. I've been in war zones and never seen the kind of stress these people were under.”

The former employees never spoke publicly before they filed their lawsuit, which has since been withdrawn. Though Scearce brought the grievances to the public’s attention during board meetings, the silence from the former employees created doubt in the community over whether a hostile work environment existed in the local agency. The employees who did speak publicly consistently said positive things about Flanagan and her department.

With furor growing in the county and on social media, the board of supervisors chairman sent a letter to the social services board asking for an independent investigation of the department in February 2018. It conducted a brief investigation through closed board meetings and interviews with several employees. The board returned a letter saying it did not uncover any specific allegations.

In April, the local social services board accepted an offer from commissioner Storen to visit Pittsylvania County after several months of volatile social media posts and the community’s calls for an investigation. Storen sent an anonymous online survey and conducted in-person interviews to assess whether there was a hostile work environment at the office. The survey was sent to current employees of the office and about 80% participated in either the survey or the interviews. Using the results, and without speaking to any former employees, the state department determined there was no hostile work environment.

The survey results showed that 35% of the employees who responded said they felt only partial or no support in their job from their colleagues or management. About 25% of the respondents said they did not feel valued. And 40% said they did not think there were any opportunities to move up or believed that some people had been preselected for promotions.

In an interview in February, Flanagan said she was not overly surprised by the results of the survey.

“You’re always going to have a percentage of people that are never happy,” said Flanagan, who was the department’s director for nine years. “You can put the golden sidewalk down and it’s still not going to be OK. To some degree, I never want anybody to not feel valued and I never want anybody to not feel good about themselves, but there are certain parts of our jobs that we’re not thrilled with.”

The state’s assessment also included a list of state mandates the agency did not meet, including its “high” number of foster children placed in nonfamily group homes. In April 2018, about 25% of the department’s foster care children were placed in these settings. The state’s target is less than 16%.

The agency was able to complete visitation with family members, which is crucial to reunification and healthy ongoing relationships, only about 25% of the time. Additionally, no staff person had completed 100% of the mandated training in their respective program areas.

The report delivered these statistics with the caveat that these problems are common across the state and Pittsylvania County was performing better than other agencies in the region. The report said the agency was “a solid local department of social services.”

The board of supervisors issued a letter in response to the state assessment requesting the social services board create a corrective action plan to address each concern within 30 days. The letter also requested the local board relinquish control of the department’s finances and human resources to the county administration, which it eventually did.

Scearce said he was disturbed by the findings, and at a board of supervisors meeting in July 2018, he directed people to the social media pages of Henry Hurt and Vic Ingram.

Ingram and Hurt posted more than 100 updates on Facebook about their own investigations into the department that garnered thousands of comments. Ingram is a retired sheriff’s deputy who previously worked with the department on child protective services investigations. Since the events regarding social services, he has been elected to the county board of supervisors. Hurt is a county resident with no direct connection to social services.

Hurt and Ingram chronicled alleged incidents of gambling in the office, employees not showing up to work on Fridays, forced resignations and inappropriate Halloween costumes, including one employee dressed as Lorena Bobbitt, a woman who became famous for severing her husband’s penis. Social media posts — including one with photos provided by a former employee — said the costume included a bloody knife and dildo. The allegations later appeared in the lawsuit filed by four former employees.

Flanagan denies numerous allegations in the lawsuit and claims the false information was an effort to destroy her reputation in the community. The lawsuit quotes social media posts and comments concerning gambling, a hostile work environment and Halloween costumes, and one insinuating proper services weren’t being provided to residents, but states all of the facts in these posts were false.

After social media posts and news articles continued to create division in the county, commissioner Storen asked the state board of social services in August 2018 to open an investigation into Scearce.

“The representative on the board of social services from the board of supervisors, in my observation, has been actively disparaging and working against the local department of social services,” Storen said at the meeting. “The board of supervisors has not been acting in the best interest of the social services department.”

The state board had just wrapped up its investigation into Rockbridge County, where it determined local board members were not negligent and did not need to be removed. In the years prior, the state discovered a Rockbridge County child protective services supervisor shredded child abuse complaints before they could be investigated. Two children died after the Rockbridge County department failed to remove them from unsafe homes and two other children suffered horrific sexual abuse.

The state board wrote a report that claimed the Rockbridge County board members had acted passively, but they didn’t know how to act as a board because they weren’t properly trained by the state. Training for local board members became a requirement in 2018.

At that same meeting, the state board agreed to investigate Scearce. It was only the second investigation the board had ever done into a member of a local social services board.

Two weeks later, the Pittsylvania County Board of Social Services voted to fire Flanagan.

“The state supported my actions as a director,” Flanagan said. “The state protected the work I was doing. After our assessment they felt that I had been exonerated and our agency was in good working order. And we were excited to move forward. But unfortunately, members on my board were still not satisfied and I’m still not sure with what.”

The day after Flanagan was fired, the board of supervisors, county administrator and county attorney received a notice of injunction relating to a Freedom of Information Act request Flanagan filed. Soon after, she filed a lawsuit against Scearce, Ingram, Hurt and members of the social services board for defamation, First Amendment retaliation, wrongful termination and due process violations.

Flanagan, who now works as a trainer and instructor with the state social services department, said she was fired with no explanation. Her $4 million defamation and wrongful termination lawsuit says her termination was a direct result of a “stigmatizing and defamatory public smear campaign” intended “to rally county community members to advance a political agenda to weaken DSS autonomy and authority.”

Flanagan's lawsuit is pending in U.S. District Court in Roanoke.

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The four former employees filed their own lawsuit against Flanagan and the board of supervisors, saying they failed to protect them from a hostile work environment because of an inadequate grievance procedure.

The employees stated in their lawsuit that Scearce became the go-to person for issues at the agency because the social services board was not involved in monitoring the department.

The lawsuit called Storen’s survey “little more than a cover-up” and compared Pittsylvania County’s situation to the one that unfolded in Rockbridge County.

“The record of numerous grievances sought could have been an early-warning sign, like the canaries in a coal mine, predicting the potential of a crisis that was becoming apparent, if not lethal,” the lawsuit said.

The employees' lawyer requested the lawsuit be dismissed, which she said was at her clients’ request. The employees later refuted this and requested a judge reverse the decision, but the dismissal was upheld in October.

Flanagan spoke to members of the state board of social services at their meeting in October 2018 and told them it was too late for her, but asked that they continue their investigation so something similar couldn’t happen to another social services director.

“I want to give my personal thanks to the commissioner and the state,” Flanagan said. “I can tell you that they were an advocate for the department. But as long as a locality can come in, and if they choose not to like social services, or they choose not to like the services we offer, they can choose to come in and there is no protection for a local director.”

In December 2018, the state board took an unprecedented step and voted to temporarily suspend Scearce from his duties on the board. It was the first disciplinary action the board had ever taken. It planned to reconvene and further discuss the issue at the next meeting, but by that time, Scearce had vacated his seat on the social services board and a new supervisor was appointed.

Unlike the investigation into Rockbridge County, the state social services board did not issue an investigative report detailing its findings related to Scearce’s removal. An email to fellow board members from then-chairman Danny Avula, who was not present at the December board meeting, said he did not think the board had cause to remove Scearce.

“Ron Scearce acted in ways that created a great deal of turmoil and heartache for a handful of current employees of Pittsylvania DSS,” he wrote. “He engaged the media actively — both mainstream media and individuals with social media platforms — which resulted in a very public, and very contentious, community conversation about the state of an agency that he had oversight of. That said, he was very careful with his language, and did not badmouth specific employees in his emails and social media posts. He seemed to be using the media to raise public awareness about an agency that, in his opinion, had severe administrative and cultural issues.”

Scearce received a letter dated Jan. 2, 2019, informing him of his suspension. He said he thought the board expected him to be a cheerleader for the department, and when he wasn’t, he was punished.

“They tell you in the training that's what you're there for, as an administrative board, accountability and oversight,” he said. “I raise my hand up and say we need to fix this and I get suspended for it.”

Avula said in his email that Scearce could have accomplished his goals by working more closely with his fellow board members behind the scenes. He said he didn’t agree with his tactics, “particularly his engagement of the media.”

“He became a safe place for employees who were having a difficult time at DSS to go, which seems like an inappropriate role for a board member to play,” Avula writes. “However, it was happening with enough volume and frequency that I see how it fueled his sense of urgency to take action.”

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Scearce said he was disgusted with the state board’s decision and procedure. He said when he first brought forth the allegations, they should have been investigated immediately, but local and state authorities dragged their feet.

Now, Scearce said he believes authority over a social services agency should rest with local officials.

“It’s obvious Richmond isn’t keeping a good eye on them,” he said. “When a locality doesn’t have a lot of input, and you got these deep departments that are semi-separated from your county, there’s not a whole lot you can do.”

Flanagan said she believes the opposite. She said the situation in Pittsylvania County demonstrates that when one person doesn’t like the direction of the department, they can wreak havoc.

She said she thinks the state should have more power to ensure a locality is driving the agency in the right direction — from administration all the way down to services. A decision to fire a director should require collaboration between the state and the locality, she said.

“They can come in and turn everything upside down,” she said. “And you have no protection as a local director.”

The Roanoke Times

March 21, 2020

Legislature funds ombudsman for foster children for first time

By Alison Graham

Virginia soon may hire a children’s ombudsman after the General Assembly passed a bill now headed to Gov. Ralph Northam’s desk. If signed, the law will go into effect July 1.

The Office of the Children’s Ombudsman will investigate complaints concerning the Virginia Department of Social Services and will have a heavy focus on foster care and child-placing decisions.

Del. Chris Hurst, D-Montgomery, introduced the bill for the third year in a row and the measure passed the House and Senate with a large majority.

As early as 2002, the General Assembly has passed this measure but has never funded it, Hurst said. Last year, Hurst’s bill proposed funding the office through the Child Advocacy Fund, which would charge an additional fine on people convicted of sex crimes against children.

But this year, the General Assembly included funding for the office in the state’s general fund budget.

“We felt like every single step of the way, there was a chance for this to die again because it has died so many times before,” Hurst said. “While we like the general idea, no one ever wanted to put the money behind it to fund the office.”

Hurst said he chose to sponsor the ombudsman bill his first year in office, and every year since, because of his experience interviewing foster parents while he worked as a reporter for WDBJ (Channel 7) in Roanoke.

He said he spoke to multiple foster families who had problems with their local social service offices, but feared retaliation if they complained. They told Hurst the ombudsman office would be a place they could report problems without fear.

In 2018, the Joint Legislative Audit and Review Commission recommended creating an ombudsman’s office to help fix problems in the state’s foster care system. The commission’s report detailed many problems with the state social services department’s accountability and oversight of local agencies across the state.

JLARC reports have documented the lack of accountability among local agencies for nearly 40 years. Reports have said agencies can operate for years with severe inadequacies and the local agencies have no recourse if they do not fix identified problems.

The 2018 report said that at least 14 other states have implemented an ombudsman office that has been able to improve child welfare programs.

“These mechanisms enable states to use strategic, targeted interventions when a local office is unable or unwilling to address identified problems,” the report said.

The ombudsman will be appointed by the governor for a term of four years, and the appointment must be confirmed by the General Assembly.

Any individual can submit a complaint to the ombudsman, but the ombudsman can also initiate an investigation without receiving a complaint.

After an investigation, the ombudsman can pursue any necessary action, including legal action, to protect the rights and welfare of a child who is receiving child protective services, in foster care, or placed for adoption.

The ombudsman can also advocate for legislative changes, make recommendations to social services offices and investigate violations of the rights of a foster parent.

Hurst said he hopes the new office will allow the people who serve the state’s most at-risk children to feel like their voices are finally being heard.

“I hope they feel confident and safe knowing they can make reports that won’t be used against them and would address and solve these problems in local departments,” he said. “I’m incredibly grateful that we got it done and still in somewhat disbelief.”

The Roanoke Times

May 9, 2020

Social workers worry about an increase in child abuse as calls decrease across the state

By Alison Graham

The Virginia Department of Social Services has seen a 50% drop in calls to the child abuse and neglect hotline since mid-March, but social workers are concerned that an increase in domestic violence and child abuse may be going unreported.

The state social services department attributes the decline in reports to teachers, counselors and other school staff not calling in allegations since schools closed March 16 to prevent the spread of COVID-19.

School staff members are required by law to report suspicions of abuse and make up the bulk of child abuse and neglect calls across the country.

Since schools closed, Virginia has seen a 90% decrease in the daily calls from school staff.

Current numbers are closer to those usually seen in June and July, when children are out of school and the number of reports typically declines. Local social services departments around the state expect these numbers to stay low as long as schools remain closed.

Ben Jones, foster care and adoptions supervisor in Roanoke County, said the county’s department has seen the same trends locally. In January, the department received 171 total complaints. In March that number dropped to 102 and in April it was 70.

However, social service workers worry about what is not being reported. COVID-19 has presented additional challenges for families already on edge, with many facing the added stress of lost wages, little to no available child care and, for a growing number, food insecurity.

“Everybody is more stressed out,” Jones said. “Families that were struggling are collapsing.”

Jones said as businesses closed and health care switched to telemedicine, some families are struggling to access the services they need.

Applications for the Supplemental Nutrition Assistance Program have more than doubled in Roanoke County. In January, the department processed 245 applications and 73 were emergency situations that needed to be expedited. In April, the county received 543 new applications and 143 were considered emergencies.

While Roanoke County has seen its child abuse and neglect calls decrease, the number of foster children entering the system has increased. Jones said if a situation has gotten bad enough that someone calls the hotline, it’s usually a serious incident. In Roanoke County, as many as one out of every 10 complaints could be connected to a child entering foster care, a much higher rate than the department typically sees.

Local foster families still have been willing to take in new kids amid the pandemic, Jones said. The state authorized foster families to receive a one-time stipend when they bring in a new child with an unknown health risk. The stipend can help cover any extra supplies or medical bills, which has helped with some of the stress, but not completely eradicated it, Jones said.

“Some of our foster homes are seeing real anguish dealing with some of our tougher kids when that break of school or seeing a friend doesn’t exist anymore,” he said. “The steam that gets built up doesn’t get released.”

Social services staff members are still required to follow the same state mandates in place before the pandemic. Foster care workers must have face-to-face visits with every foster child once per month. Child abuse calls deemed valid must be investigated within 24 hours or five working days, depending on the severity.

“The work has not stopped,” Bedford County social services director Andy Crawford said. “We’re still out there.”

Crawford is also the president of the Virginia League of Social Services Executives, a professional organization for all 120 local social services directors in the state. Crawford said each department still has plenty of work to do, but each locality has changed its practices to abide by social distancing and keep staff members safe.

Many departments are limiting face-to-face interactions with clients and relying on video conferencing software instead.

In Bedford County, foster care workers are no longer visiting homes unless it’s an emergency. Monthly check-ins are completed through a teleconferencing program the state provided to every department that abides by health privacy regulations.

Child protective services workers are conducting child abuse interviews on front porches and in back yards while wearing masks and gloves. They ask families to take videos of the inside of homes and only go inside if it’s absolutely necessary.

Roanoke County social workers are doing much of the same — porch interviews, videoconferencing and staying out of the office. Jones said the department has masks and gloves they provide workers, but sometimes they run short on supplies.

“None of our social workers have been positive for COVID, but that’s not anything but fortune,” he said. “CPS is going in every day and it’s probably just a matter of time until someone is positive.”

In Montgomery County, the social services department already survived a COVID-19 outbreak. On April 2, the department was notified that a staff member tested positive. Eventually, the department would have 9 confirmed cases — more than 10% of its staff.

Larry Lindsey, the department’s director, quarantined the staff for three weeks. He said the state rushed to put software in place that allowed workers to access their work computers from home, and many of the CPS and foster care staff already had iPads from a program the state department launched last fall.

Neighboring localities helped process some of the department’s SNAP applications while workers adjusted to their new at-home routines. Staff still completed their own CPS investigations and monthly foster care check-ins were done via video.

The department’s staff came out of quarantine on April 27 and returned to working part-time in the office after the building was cleaned and sanitized. Everyone is recuperating and getting back on schedule, Lindsey said.

“We took a situation that could have had a much bigger or a negative impact on our community and our citizens, but because of the positive attitude and the team work, we got through it,” Lindsey said. “It could have turned out a whole lot worse.”

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Pandemic brings challenges to foster parent recruitment

By Alison Graham

The coronavirus pandemic wouldn’t stop Karen Mason from becoming a foster parent.

For years, she and her son talked about opening their home to another child, but it was never the right time. Just as all of the pieces seemed to fall into place, a global pandemic settled into the Roanoke Valley.

Mason and her son, Tommy, 17, decided that despite the uncertainty of the COVID-19 pandemic, they would move forward with becoming a foster family. Mason finished her training class with the Roanoke County Department of Social Services in October and an 8-year-old foster son moved into their home soon after.

“Really not a whole lot has changed about my work life and availability, so it just felt like the right time,” Mason said. “I wasn’t going to let COVID get in the way of what I felt was the right thing.”

While some child welfare agencies across the country have been able to attract new foster parents, others have struggled as marketing, training and communication have moved entirely online. The decrease in new foster families leaves advocates worried there won’t be enough available homes for children who need care.

Those who work in foster care say potential foster families have been dissuaded from the process because of uncertainty around unemployment or taking in a child with unknown exposures to the virus, and the added stress of remote schooling.

“Virtual schooling is making foster parent recruitment extremely challenging,” said Janet Kelly, president of Virginia’s Kids Belong. “Because it’s one thing to ask a foster family to take in a child who’s not theirs, but it’s even more to ask them to also help them through school.”

Virginia does not track the number of foster parents trained by each locality or by private organizations, so it can be difficult to know exactly how the system has been affected by the coronavirus pandemic.

Kelly, who helps recruit foster parents through her organization, said the state’s numbers may show that every kid has a placement. And adding up the number of homes from each organization may show there are enough, but some of those homes might not be willing to take older kids who are most in need of placements.

“Virginia does not have the right kinds of homes that will take the kids who need homes right now, which is older kids,” she said. “That was the same before COVID, but it’s definitely worse now.”

Intercept Health, a private foster parent licensing agency based in Richmond, often did community events and in-person outreach to recruit foster families. Natalie Elliott, Intercept’s senior director of program development, said because many of those events had to be canceled, her agency has seen its inquiry numbers drop.

She said Intercept has continued to approve new foster families during the pandemic, but the drop can be tied to fear and instability. When stimulus checks went out in March, the number of inquiries went up. When the extra federal unemployment payments stopped, the inquiries dropped.

Even so, Intercept has been able to approve 11 foster families in Rockbridge County since last November, when it launched a program called Foster Rockbridge to increase the number of families in the area by partnering with local churches. At the time, the community only had six families even though the local social services department had taken in more than 40 foster kids.

With more classes in the works, Intercept has nearly tripled the number of foster parents in the community.

One of those parents is Michael Saunders, pastor of Lexington Baptist Church. He and the pastors of three other local churches are working with Intercept to jumpstart the Foster Rockbridge program again. It received a great response earlier this year, but things shut down once the pandemic started.

“People are trying to figure out what they’re doing in their own life, let alone helping other people,” Saunders said. “We can’t do what we’d like to do, but we’re doing the best we can to remind them of the need and keep the drums rolling.”

**Local successes**

Social services departments across the Roanoke and New River valleys have seen steady numbers and sometimes increases in their foster parent classes.

Roanoke’s social services department finished a training in June that included 10 new foster families. Another class wrapped up this month with another six.

Family services supervisor Kristin Rickman said the response has been surprising. She said when the pandemic first hit, her department was worried that recruitment would grind to a halt and there wouldn’t be enough placements for children who had to be removed from their homes.

“If anything, people are coming out more to meet the need,” Rickman said. “I’ve been impressed with people stepping up during the middle of a pandemic. It’s been nice to see people come together for once.”

Kelly Edmonson , director of the Montgomery County Department of Social Services, said she’s actually seen an increase in interested foster parents. She said her department typically has two to three interested families who inquire with the office every month. Lately, it’s been between five and eight new families every month since March.

Now, the department has more than 50 families ready to take in foster children.

“That’s incredible that we have that number,” Edmonson said. “I was expecting people to be more apprehensive about going through this process. I feel that maybe because life is not so chaotic — day to day, work and school — that they really are trying to serve their community.”

**New challenges**

The need for foster parents has continued throughout the pandemic. In Roanoke, the number of kids in foster care has stayed steady at more than 200. In Roanoke County, the number has grown from 110 children in January to 128 in October.

Many foster parent training classes were wrapping up when mandated closures and social distancing requirements went into effect. Most localities were able to end their classes in person before switching to a virtual format.

Although it is easier for parents to attend training online, virtual classes can present challenges for local departments to get to know the family and what kind of child placements will work best for them.

Edmonson said her staff have tried to make regular phone calls to their new foster parents and asked them to fill out more information about particular age ranges, behavioral issues and traumas that would challenge them during a placement. These things are typically covered in foster parent training but can often come out in small talk and side conversations.

But Elliott, who works with Intercept Health, said sometimes Zoom calls can offer an interesting glimpse into someone’s home life that trainers don’t typically get to see — kids interrupting their parents, pets coming in and out of the camera, the general noise of a home.

“You hear what’s going on, you get a sense of what their home is really like,” Elliott said. “The office training is a controlled setting. This is not a controlled setting.”

Agencies are also training parents on how to handle COVID-19 when children come in with unknown exposure levels. All local departments handle intake differently, but most of them screen for coronavirus symptoms. COVID-19 tests are administered only if children show symptoms or if there is a suspicion they might have been exposed.

So far, agencies said they have not had any trouble with foster parents being unwilling to take kids because of a fear they could be positive for COVID-19. All foster parents are expected to follow the Centers for Disease Control and Prevention guidelines and state mandates.

“We haven’t had any major emergency removal that created concern for our families,” Edmonson said. “Our foster parents are rock stars. It’s a dynamic to bring a child into your home you don’t know, but it’s amazing that they’re willing to do it during this time.”

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State study recommends changes to combat rising costs of Children’s Services Act

By Alison Graham

A state commission recommended sweeping changes Monday to the Children’s Services Act following years of cost increases without a proportional increase in the number of children being served.

The Children’s Services Act was enacted in 1992 to streamline funding for at-risk children in Virginia. The legislation pooled state money from four child-serving agencies and eight different funding streams, including those from the education, juvenile justice, behavioral health and social services departments. Localities were required to create interdisciplinary teams to coordinate services to at-risk children and eliminate duplication between providers.

In fiscal year 2019, the CSA program served 15,645 children statewide at a cost of $427 million. In fiscal year 2020, which ended June 30, the state served 360 fewer children at a cost of about $447 million, according to data from the Office of Children’s Services, the department that oversees the program statewide.

These cost increases, which have continued since 2014, prompted the Joint Legislative Audit and Review Commission to study CSA and the use of private special education day school placements, which has largely been the driver in spending growth.

CSA spending on private special education placements has more than doubled since 2010, growing about 14% per year from $81 million to $186 million. It accounts for nearly half of all CSA spending.

Children who are placed in private special education are those who cannot be adequately served by their public school system. Sometimes these children exhibit disruptive behaviors like kicking, screaming, throwing objects, acting aggressively toward other students or staff, destroying property or running away. Some students in private placements have been diagnosed with autism or other learning challenges that require more intensive instruction.

Local school districts’ individualized education program teams, with input from parents, make placement decisions for students with disabilities or behavioral challenges. CSA programs do not have control over these placements but are required to pay for them, according to the JLARC study.

The Virginia Department of Education is also responsible for inspecting and licensing private day schools and publishing their performance measures.

JLARC staff recommended the General Assembly consider transferring the funds used for special education placements to the Department of Education by July 1, 2022. JLARC staff said that the department would most likely need to implement the plan in phases, but that it would be a more logical administrator of these funds.

The commission also found that the Office of Children’s Services does not have the authority to ensure that local programs are working effectively.

Virginia law does not require the office to regularly monitor local CSA programs and only allows it to step in when a program is noncompliant. Audits are completed every three years but do not assess the effectiveness of local programs. According to JLARC, some local programs view CSA as a funding source, rather than as a comprehensive planning tool for at-risk children as the legislation intended.

JLARC recommended requiring the Office of Children’s Services to actively monitor and work with local programs to improve their performance and outcomes.

One focus could be the localities’ use of so-called nonmandated funds. Children served by CSA are categorized into mandated and nonmandated populations. The state and localities are required to pay in full for the services for children in the former category, who include foster children, children at risk of being placed in foster care, and students with disabilities in private special education day schools.

Localities can choose to serve nonmandated children, who often have similar issues but present less severe risks. According to JLARC’s study, nearly half of Virginia’s localities choose not to provide nonmandated services — most of them smaller, rural localities that cannot afford the local match required by the state.

By not serving these children, a locality could be delaying intervention for at-risk youth whose problems could eventually escalate. About two thirds of the localities who serve nonmandated children reported that the services prevented children from moving into a mandated category, which are typically more expensive.

JLARC recommended the General Assembly require localities to use all of the funds allotted for nonmandated children. The commission estimated this would result in localities serving an additional 346 children statewide at a cost of about $1.6 million in state and local spending.