

Preventing Unnecessary Family Separation in Virginia

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Introductory Materials

Mandatory Disclaimer

The author conducted this study as part of the program of professional education at the Frank Batten School of Leadership and Public Policy, University of Virginia. This paper is submitted in partial fulfillment of the course requirements for the Master of Public Policy degree. The judgments and conclusions are solely those of the author, and are not necessarily endorsed by the Batten School, by the University of Virginia, or by any other agency.

Honor Code

On my honor as a student, I have neither given nor received unauthorized aid on this assignment.



Acknowledgments

This project represents the longest and most challenging assignment I have ever undertaken, and it comes with the longest list of people to thank.

First, I extend my deepest gratitude to my client, Valerie from the Virginia Poverty Law Center (VPLC). Valerie, you have taught me so much and are an incredible person to aspire to. Your guidance and support have been invaluable. I also want to thank the staff at Voices for Virginia's Children for connecting me to Valerie and helping me explore and discover my passion in the child policy sphere.

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Glossary and Acronyms

Child Maltreatment— parent fails to provide a minimum amount of care (includes physical safety, food, clothing, shelter, education, medical care, among other needs); divided into categories of neglect and abuse

Child Neglect— parent fails to provide one or more part of the minimum amount of care

Child Abuse— severe maltreatment that typically involves physical injury, threat of physical injury, and/or sexual abuse

Child Welfare System— network of services intended to support and protect children; includes the court system, foster care, and other services for families

Foster Care— temporary arrangement in which a child is placed with a state-certified caregiver when their own family cannot provide a safe environment

Permanency— final court-established plan for a child's future in a child maltreatment case

Virginia Department of Social Services (VDSS)— state agency responsible for child welfare services

Child Protective Services (CPS)— a division of VDSS that investigates reports of child abuse and neglect

Executive Summary

This report addresses the critical issue of unnecessary family separation in Virginia's child welfare system. Written for Valerie L'Herrou at the Virginia Poverty Law Center (VPLC), it aims to provide a strategic recommendation to strengthen family units rather than tear them apart.

With more than 5,000 children currently in foster care, Virginia's child welfare statistics are significantly worse than national averages, raising concerns about the state's approach. Virginia ranks 49th for children aging out of foster care and only successfully reunites families 27% of the time, compared to the national average of 47% (Voices for Virginia's Children, 2019; L'Herrou, 2024). There is no reason to suspect that Virginia's parents are inherently worse than parents in other states; and therefore, action must be taken to ensure that separation is used as a last resort instead of a first (and often permanent) response.

Separation has devastating consequences for families and children. Children who experience separation are more likely to suffer from depression, attempt suicide, and experience developmental delays (ACLU, 2019). They also face higher risks of human trafficking and poor educational outcomes (FosterVA, 2024). These consequences highlight the urgent need for interventions that can prevent unnecessary separations and support family reunification.

Solutions that prevent these consequences are separated in this report into two main buckets: family-level prevention and system-level intervention. Family-level prevention focuses on supporting families directly to prevent neglect and maltreatment, such as parent education programs and financial assistance. System-level interventions aim to improve the child welfare system itself to better support families, including parent representation and child welfare reforms. Both of these buckets are critical in figuring out how family separation can best be prevented.

To find the best policy alternative for reducing the frequency of family separations, three options were evaluated based on four criteria: effectiveness, cost, administrative feasibility, and political feasibility. Cost was further divided into policy cost, cost-savings (money not spent on foster care), and cost-effectiveness (cost to keep one child out of foster care). Based on these criteria, three possible solutions were identified:

- 1) **Pre-Petition Legal Representation:** This policy involves providing legal representation to parents before a dependency petition is filed. It helps parents navigate the legal system and access necessary resources to prevent family separation.
- 2) **Cultural Competency Training:** This training for VDSS employees aims to reduce biases and improve interactions with families from diverse backgrounds. It focuses on teaching caseworkers to recognize and address systemic biases and how to identify family strengths.
- 3) **Early Childhood Tax Credit for Low-Income Families:** This policy provides a refundable tax credit for low-income families with children aged 0-5. It aims to reduce poverty-adjacent neglect by providing financial support to families during the critical early years of a child's life.

Using these criteria as a baseline for analysis, the best option for VPLC is to promote pre-petition legal representation with the goal of having one attorney in all nine legal aid offices. This intervention has shown high effectiveness in other states, with significant reductions in family separations and increases in cost savings.

Although budget amendments to support the establishment of two pilot offices fell through this legislative session, making pre-petition representation a reality is still feasible with the right implementation plan. VPLC can either come back next legislative session with a new approach to advocacy or they can get more creative with how the pilots are funded. From there, VPLC will assist with the hiring and oversight of attorneys, connect legal aid centers to VDSS, and collect data to justify the expansion of the program in the next legislative session. With these phases, VPLC will reduce the number of unnecessary family separations in Virginia's child welfare system.

Problem Definition

There are currently over 5,000 children in Virginia's foster care system. Virginia's approach to child welfare raises serious concerns about unnecessary family separation and its devastating impact on children. While 47% of children nationally are reunified with their parents, Virginia achieves reunification in only 27% of cases. The state also has nearly double the rate of children aging out of foster care without permanent families, ranking 49th nationally (L'Herrou, 2024; Voices for Virginia's Children, 2019). Given that Virginia reports one of the lowest rates of child abuse and neglect in the country, its child welfare outcomes raise concerning questions about whether many of these family separations are truly necessary (HHS et al., 2022). Because of Virginia's approach to child welfare, too many children are facing increased risks like trauma and even human trafficking (FosterVA, 2024).

In its effort to crack-down on child maltreatment, Virginia is ignoring the importance of strengthening family units and is lagging behind the nation for family reunification statistics. This failure also comes with a price tag: \$930,000 per day spent on foster care (VDSS, 2023). If Virginia implements an effective strategy to safely keep families together, it can lower this price tag, both in dollars for the state and the emotional toll that separation takes on families.

Client Overview

The recipient of this project is Valerie L'Herrou, the Deputy Director of Family Advocacy at the Virginia Poverty Law Center (VPLC). VPLC's mission is to break down systemic barriers that keep low-income Virginians in the cycle of poverty. The topic of child welfare is highly connected to this mission because most cases of child maltreatment are classifiable as poverty-adjacent neglect. Not only does poverty create a risk-factor for child welfare involvement, but aging out of foster care increases a child's likelihood of remaining in poverty (The Annie E. Casey Foundation, 2022).

The current child welfare system criminalizes poverty instead of supporting families, in turn creating the cycle VPLC is working to break down—poverty is a risk factor for separation and separation is a risk factor for poverty. The objective for this project is to provide VPLC with analysis and a strategic recommendation that both decriminalizes poverty in the child welfare system and strengthens families to prevent maltreatment.

Background

There are more than 5,000 children in Virginia's foster care system (VDSS, 2023). In other words, 5,000 children who the state has separated from their families, and 3 out of 4 of these children will not be reunited with their parents (L'Herrou, 2024). While child maltreatment is a serious issue, Virginia seems to ignore opportunities to keep families together, resulting in unnecessary family separation, especially in cases of neglect.

What is Unnecessary Family Separation?

For this memo, unnecessary separation encompasses cases where child neglect is either preventable or intervenable without separation. The definition includes both temporary and permanent separation of the family. There are necessary family separations—when a child's safety and health are in urgent danger—but in many cases, separation is worse for a child than a home situation that resources can improve (see below section on consequences of separation).

While sometimes VDSS must separate children from their immediate family to ensure their safety, Virginia also has some of the lowest rates for kinship placements, which is when a child is placed with a different family member (like a grandparent). Only 10% of placements in Virginia are with kin compared to 35% nationally. Of the children not in kinship care, 63% are placed with a non-relative, 11% are in group homes or institutions, and 17% are in the other category (Child Trends, 2024). Failing to use kinship care when other states would is another way that Virginia is promoting unnecessary separation, creating a larger divide between children and their parents.

Risk Factors for Family Separation

Below are the recorded reasons for Virginia separating children from their parents and putting them into foster care (Child Trends, 2024):

Neglect— 54%

Physical Abuse— 15%

Parental Substance Abuse— 37%

Child Behavioral Problem— 18%

Inadequate Housing— 13%

Inability to Cope— 8%

Abandonment— 6%

Parental Incarceration— 5%

Sexual Abuse— 5%

These statistics reveal a few key details about child welfare in Virginia. For one, cases that require immediate removal due to severe issues like sexual or physical abuse are relatively rare. This reveals that many other reasons for family separation can be addressed without removing children from the home, provided the root causes and risk factors are identified. For example, inadequate housing and an inability to cope are often linked to poverty, presenting an area for intervention. This section outlines three major risk factors for unnecessary family separation: poverty, race, and substance abuse/mental health.

Poverty

85% of families that CPS investigates for child neglect have incomes below 200% of the poverty threshold, highlighting how financial hardship can be a significant risk factor (Herd et al., 2022). Poverty does not mean that a family will neglect their child, but it increases the odds of investigation and, subsequently, separation. Families in poverty are also exposed to another type of child maltreatment, poverty-adjacent neglect. An example of poverty-adjacent neglect is a parent leaving their sick child unsupervised because they have to go to work. If a neighbor files a report, this can escalate to a CPS investigation. Parents in this situation are caught between supervising and feeding their children. Not going to work could also put a parent at risk of losing their home, another reason that could contribute to VDSS separating a family..

The situation for families in poverty is made worse by the complexity of the child welfare system. When parents have multiple jobs and no legal education, it is nearly impossible to navigate the system without legal representation. Many families do not have the money to afford, knowledge of, and ability to access representation, increasing the risk of separation and, ultimately, the termination of parental rights which is often called the civil death penalty.

Race

In Virginia, African American children make up 30% of the foster care population despite representing only 18.6% of children in the state (Annie E. Casey Foundation, 2022b; Voices for Virginia’s Children, 2019). While much of this disparity can likely stem from poverty—1 in 4 African American children live in poverty—systemic biases may also be at play (Annie E. Casey Foundation, 2022).

There is strong evidence that bias exists within child welfare systems. Studies have found that African American children are equally likely to be hospitalized for maltreatment as white children, yet they are more likely to be reported to CPS and removed from their homes (Rebbe et al., 2022). Some states are in the early stages of reducing racial bias in their child welfare systems. For example, Minnesota passed the African American Family Preservation Act in the summer of 2024, which includes cultural competency training for caseworkers in the Minnesota Department of Social Services (more details in evidence section).

Racial disparities are also not exclusive to Black families in Virginia. Across the board, children from marginalized groups are less likely to exit foster care than their white peers (Child Trends, 2024).

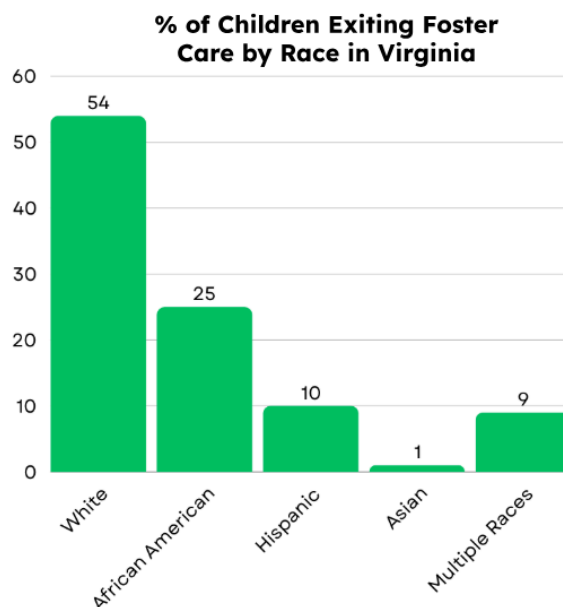


Figure 1. % of Children Exiting Foster Care by Race in Virginia (Data from Child Trends, 2024)

Mental Health and Substance Abuse

Virginia's child welfare system is not accommodating of parents with mental health and substance abuse challenges. Once an investigation of child neglect is substantiated, the process to separate families and terminate parental rights moves quickly. While it is important to move fast to ensure a child's safety, it is unclear if Virginia is striking a healthy balance. If a child has been placed out of the home for 15 of 22 months, VDSS must file a petition to terminate parental rights, which the court then decides on (Virginia Code § 63.2-910.2). Other reasons for termination of parental rights include but are not limited to (Virginia Code § 16.1-283):

- The parent or parents have habitually abused or are addicted to intoxicating liquors, narcotics or other dangerous drugs to the extent that proper parental ability has been seriously impaired and the parent, without good cause, has not responded to or followed through with recommended and available treatment which could have improved the capacity for adequate parental functioning
- The parent or parents have a mental or emotional illness or intellectual disability of such severity that there is no reasonable expectation that such parent will be able to undertake responsibility for the care needed by the child
- The parent or parents, without good cause, have been unwilling or unable within a reasonable period of time not to exceed 12 months from the date the child was placed in foster care to remedy substantially the conditions which led to or required continuation of the child's foster care placement, notwithstanding the reasonable and appropriate efforts of social, medical, mental health or other rehabilitative agencies to such end

While there is some flexibility in the Virginia code, ambiguity about the meaning of "reasonable" and "unable" leaves families vulnerable to separation. VDSS takes an average of 41 days to initiate post-response services, like mental health and substance abuse treatment, which chops off a month of the 15/22 months before a termination case (HHS et al., 2022). Additionally, representatives of organizations across Virginia report long waitlists for these services. Oftentimes, when a VDSS caseworker goes to inform the court of parental progress, all they can say is the parent is on the waitlist. When programs are finally initiated, they are all still time-consuming. One of the better examples is the Charlottesville/Albemarle Family Recovery Court. VDSS refers parents to this program to help them achieve long-term sobriety, increasing the odds of family reunification. The program, however, is 12-18 months long and requires intensive treatment (Region 10, 2025). This means that a parent must follow the program perfectly or have their child removed permanently.

Consequences of Separation

While separating families may seem like an easy solution to child maltreatment, it comes with its own set of side effects, which are often worse than the child's home situation. For one, separating a child from their parents creates immense trauma, which has significant ramifications for their well-being. Children who experience separation are more likely to have depression, have architectural changes in the brain, attempt suicide, and experience sleep deprivation (ACLU, 2019). Even more simple things—like switching schools, losing friends, and being disconnected from the familiar—are immense struggles for kids and represent the loss of a support system, especially when 18% of children experience three or more placement changes in the span of a year (HHS, 2022). In Virginia, the median child stays in foster care for 15.8 months (VDSS, 2023). This is a massive chunk of time in a child's life that can have lasting damage, even if the family is reunited.

Extreme ramifications of foster care are also all too common. For example, 80% of human trafficking victims are or have been in the foster care system (FosterVA, 2024). Compared to other states, Virginia has close to the fewest policies to prevent the foster care to human trafficking pipeline (Human Trafficking, 2017). Placement options outside of foster care also come with extreme risks. Young people with mental health concerns can be placed by the state in youth residential treatment facilities, which are under federal investigation for severe abuse, neglect, and death (Havison, 2024).

All of these consequences can, and often do, compound into bad outcomes. Children in foster care are more likely to have learning disabilities and developmental delays, have 2-3x the risk for delinquency outcomes, and have higher rates of teen pregnancies. These children also have low incomes in adulthood, contributing to the cycle of poverty (ACLU, 2019). Because Virginia has a low family reunification rate and a high aging-out rate for foster care, family separations expose too many children to these consequences.

Evidence of Potential Solutions

In discussions about Virginia's child welfare there is an inclination to either blame families for neglecting their children or to blame the system for neglecting families. These two buckets of blame are actually buckets of possible solutions:

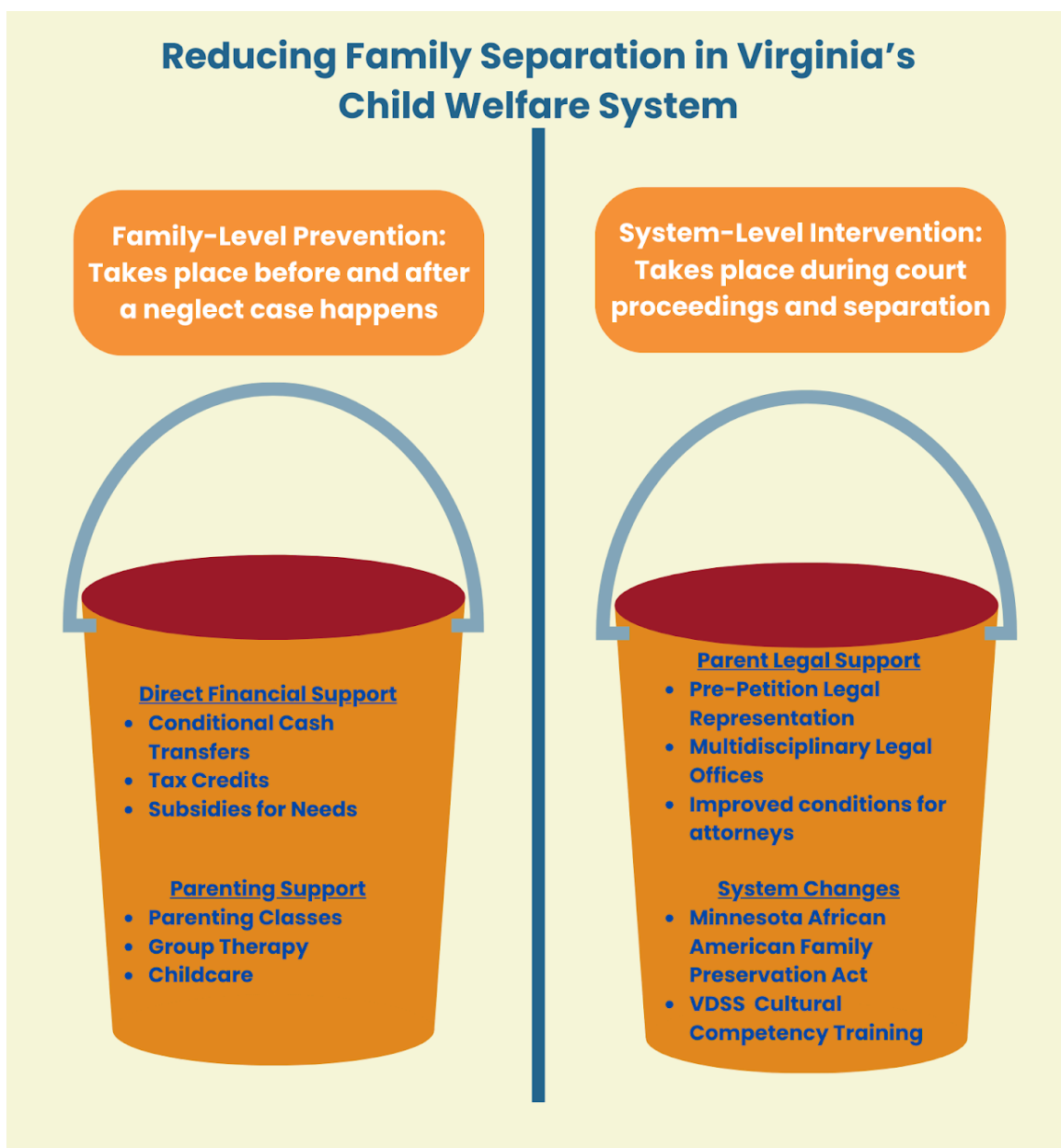


Figure 2. Buckets of solutions, a framework for this literature review

Family-Level Prevention

There is a common misconception that parenting is intuitive— it is not, especially when a parent cannot afford and access support. An approach to reducing family separations is to prevent neglect at the family level.

Parent Education

Parent education is a popular method for neglect prevention, typically involving a series of group courses where parents learn nurturing skills. One evaluated program, Family Connections in Baltimore, demonstrated significant benefits, including increased protective factors, reduced neglect risk factors, and overall, improved child safety. Notably, the program found that a three-month duration was just as effective as a nine-month one, offering a promising solution for quickly addressing home problems (DePanfilis & Dubowitz, 2005). If implementable in Virginia, an additional benefit of in-person education courses is that they may be one of the few interventions proven to help families impacted by substance abuse. No official evaluations have assessed whether they reduce neglect over time, but by the end of sixteen group sessions, parents demonstrate stronger knowledge about child-rearing and increased empathy (Barth, 2009).

A limitation of many studies on parenting courses is that they focus on urban areas, which may not translate well to Virginia, especially its Southwestern region. A study in Turkey attempted a virtual version of parent education for rural communities, but it did not result in a significant change in neglect rates (Gülirmak & Orak, 2021). It is also important to note that there are many studies that report inconclusive or negative results from parenting classes and in-home visits (Barlow et al., 2006). Given that both education programs require significant energy and funding to meet best practices, other alternatives may be more appropriate.

Another type of education is individualized home visits, where an educator regularly drops in on parents to help them practice child-rearing techniques. Several programs have demonstrated decreases in neglect. A randomized control trial in Hawaii saw decreases in neglect as well as decreases in child health problems (Duggan et al., 2004). One of the most successful programs is the Nurse-Family Partnership, which pairs at-risk, first-time mothers with a nurse. The Nurse-Family Partnership reduces the risks of child neglect, and results remain for 15 years after the program ends (Avellar & Supplee, 2013). An additional benefit of home visits is they can be customized to support mental health needs. The Thresholds Mothers' Project assists mothers diagnosed with psychiatric illness in meeting the needs of themselves and their children. After one year in this program, 77% of children can stay with their mothers (Barth, 2009).

One drawback of home visits, though, is that, in general, parents are more likely to be reported for child neglect than parents who receive no services at all. This is because outside visitors to the home sometimes report what they see. Reports are not necessarily bad if the child is in danger, but some in-home visit programs may increase family separation even if conditions are improving (Barth, 2009).

Because of inconsistent testing results and because some organizations are already providing this service, family education will not be analyzed as an alternative in this report.

Financial Assistance

While education and in-home support can be effective, there is evidence that this is only beating around the bush compared to addressing the root of many neglect cases: poverty. Research demonstrates that various forms of economic support can reduce child neglect rates. For example, states with more generous income eligibility for childcare subsidies have lower neglect referral rates from birth to age five (Klika et al., 2022).

More direct financial assistance programs also have benefits. A study of unconditional cash transfers has found that providing families with just \$1,000 in the first few months of a child's life reduces the likelihood of Child Protective Services involvement by 10% (Bullinger et al., 2023). Similarly, the 2021 expansion of the Child Tax Credit, which provided advance monthly payments to families, led to a measurable decrease in hospital visits related to neglect (Bullinger & Boy, 2023). While outcomes seem promising, some conservatives—even those invested in the issue of foster care—see financial support as handouts and government overspending. This attitude could make financial support politically infeasible.

Regardless of whether family-level prevention is educational or financial, it requires significant distribution efforts. In order to distribute education or resources to at-risk populations, the state must identify who is at-risk and get them to use the program. Some ideas include targeting families with chronically absent children or offering general programs in high-risk communities, but both of these methods rely on parents volunteering to participate. Although these interventions can happen before a family reaches the point of investigation, Virginia may be more likely to use them as post-response services, which can be an alternative to separation or a step during the reunification process. Only 27% of substantiated maltreatment cases in Virginia receive post-response services compared to 55% nationally, so educational and financial services could be beneficial in getting Virginia to catch up (Kelly et al., 2022).

System-Level Intervention

The child welfare system is difficult to navigate and often unaccommodating of families' individual needs. A child welfare system that does not support and empathize with parents does not truly support children. To prevent separation, Virginia can explore systemic alternatives that strengthen the entire family unit, including parents.

Improved and Proactive Representation

Virginia's child welfare outcomes could benefit from addressing the quality of representation for parents. Until January 2025, Virginia had the lowest pay in the country for parent legal representatives, with a maximum of \$120 per case. Although this increased to \$330 per case, it remains insufficient compared to other states—nationally, the average parent attorney makes \$446-\$642 per case (Virginia Code § 16.1-267; Ellis et al., 2017). Attorneys also need additional funds to cover expenses such as traveling to rural areas where parent representatives are scarce. There is also a lack of standardized training for attorneys appointed to represent parents, and many do not meet their clients until the day of court (Office of the Children's Ombudsman, 2023). Poor representation can lead parents to feel that the system is designed to make them fail, which is concerning given that the termination of parental rights is referred to as the civil death penalty. Increasing pay and providing training could attract more and higher-quality attorneys. Studies show that children whose parents have representation are more likely to be reunited with their parents, placed with kin, and less likely to experience trauma, without an increased risk of subsequent maltreatment (Casey Family Programs, 2019).

The optimal time for parents to receive legal representation, though, is before their child is removed from the home. Pre-petition legal representation occurs between a child coming to the attention of a local VDSS agency's CPS unit and the filing of a dependency petition. During this period, an attorney can assist parents by connecting them with legal and social services to prevent the state from needing to separate the family (Casey Family Programs, 2024). Although pre-petition representation is eligible for federal Title IV-E funding, Virginia has not yet utilized this opportunity.

A Sample of Pre-Petition Success Stories

Other states have seen success with pre-petition legal representation:

- New Jersey: In a study of 200 court referrals to a single pre-petition office, none of over 300 children were removed (Maine Legislature, 2022).
- Iowa: Iowa Legal Aid estimates economic gains of \$4.36 for each \$1 invested in pre-petition legal representation (Casey Family Programs, 2020).
- New York: In 131 cases at the Bronx Defenders Office, 72% did not result in a petition, and all but 2 children remained at home or in kinship care after court proceedings (Bronx Defenders, 2012).
- Michigan: In 3 years at the Detroit Center for Family and Advocacy, 92.7% of cases did not reach petition-filing (Maine Legislature, 2022).

Pairing pre-petition representation with other programs, like multidisciplinary offices, can enhance impact. Multidisciplinary offices, which include lawyers, social workers, and parent advocates, provide comprehensive support to parents, helping them navigate the complexities of the system and improve their home situations. A major study in New York demonstrated that multidisciplinary family defense offices secured the safe return of children to their families approximately 43% more often in the first year compared to solo lawyers. Additionally, when children whose parents received interdisciplinary representation did enter foster care, they spent an average of 118 fewer days in foster care over the four years following the abuse or neglect case filing (Gerber et al., 2019).

Enhanced System Competency

Outside of parent representation, there are several ways Virginia's child welfare system could better advocate for families. The recent passage of the Minnesota African American Family Preservation Act, which the Minnesota legislature passed unanimously, is an example of bipartisan interest in improving system outcomes. A central component of the act is cultural competency training for caseworkers from the Minnesota DSS (Minnesota Legislature, 2024). The mission of cultural competency training is to teach DSS employees to interact with families without making assumptions, look for family strengths, honor diversity, and recognize systemic racial biases (MN Child Welfare Training Academy, 2020).

No evidence has been collected yet on the Minnesota African American Family Preservation Act because the policy has not been in full effect long enough to be evaluated; however, a few other studies have been done on the effectiveness of training programs in general. Title IV-E funding provides stipends for education, which can include cultural competency training. In a study, children with a stipend recipient as their caseworker were eight percentage points more likely to be reunited with their families (Leung & Willis, 2012). Another study based out of New York found that cultural competency training improved caseworker's awareness, knowledge, and skills related to supporting culturally diverse populations (De Jesús et al., 2016). Although training could be successful, some are worried about the burden it places on already overburdened caseworkers (Casey Family Programs, 2023).

Alternatives and Evaluation

Evidence of neglected solutions demonstrate that Virginia's child welfare system is failing more than 5,000 children and their families. Virginia is falling far below national averages for family reunification and neglecting policies that could keep families together. To create the best path forward, the rest of this report analyzes options from both the system and family buckets. The system alternatives are providing pre-petition legal representation and requiring cultural competency training for VDSS employees in the Division of Family Services (DFS). The family-level option explores financial support in the shape of an early childhood tax credit for low-income families.

These three alternatives will be evaluated using the following criteria, which will later support an outcomes matrix:

- 1) Effectiveness: the alternative's ability to reduce the number of family separations in Virginia without endangering the safety of children
- 2) Cost: the anticipated dollar amount the Virginia legislature needs to implement the policy. This also considers cost-savings resulting from decreased spending on foster care and cost-effectiveness.
- 3) Administrative Feasibility: the ability for the policy to be implemented given the limitations and capacity of governmental, organizational, and other key infrastructures.
- 4) Political Feasibility: the likelihood that the alternative will make it through the Virginia General Assembly and be signed by the governor given the current political climate.

Alternative 1: Expand Pre-Petition Legal Representation

Unlike many other states, Virginia does not currently have a way for low-income families to access legal counsel until after CPS has removed a child from the home. Once a child is removed from the home, it becomes an intense legal battle for family reunification. Pre-petition legal representation offers a solution and opportunity to strengthen families. Pre-petition legal representation happens between a child coming to the attention of a local VDSS agency's CPS unit and the filing of a dependency petition. During this period, an attorney can assist parents by connecting them with legal and social services, preventing the case from reaching court and making sure the family has what they need to fix problems at home (Casey Family Programs, 2024). To expand pre-petition legal representation, VPLC should strive for a specialized pre-petition attorney to be staffed in all nine of Virginia's legal aid offices.

Effectiveness

As specified in the system-level intervention section of this report, legal offices and states using pre-petition legal representation have had outstanding results:

- New Jersey's CPS refers families to Legal Services of New Jersey, providing parents with pre-petition legal representation. In a sample of 200 referrals in 2019, none of 300 children were removed from their home (Maine, 2022). New Jersey's foster care population has decreased from 10,000 to 3,000 in recent years, and pre-petition legal representation has been called a contributing factor (Stainton, 2024).
- From 2009 to 2012, the Detroit Center for Family Advocacy found that 92.7% of the cases they represented did not reach petition filing. Only four children were removed from their homes in that time period, but all of them stayed with another family member before being reunited with their parents (Casey Family Programs, 2024).

With nine attorneys (each having an annual caseload of 80), 720 families would be able to access pre-petition legal representation. Given a 92% to 100% success rate, between 660 and 720 children would be kept out of foster care, 15% of the total foster care population. Not only would the number of family separations decrease, but there is no evidence that child maltreatment would increase—in fact, it may decrease. Pre-petition legal representation connects parents to resources and helps them build safety plans, making children even safer at home. For these reasons, pre-petition legal representation is a highly effective option.

Cost

To implement pre-petition legal representation in all nine of Virginia's legal aid centers it would cost around \$850,000 annually (Appendix A). Under Title IV-E of the Social Security Act, the federal government will partially reimburse states for providing pre-petition services. Virginia can claim 50% of the federal participation rate, which is a 23% reimbursement this year. Assuming the rate stays relatively constant, the cost to Virginia becomes around \$650,000 (Appendix A). The average cost-savings for keeping a child out of foster care is \$17,000, meaning only 40 children would have to be kept out of foster care for the program to pay for itself, which, given effectiveness, is entirely feasible. There is also evidence of cost-savings from other states. For example, Iowa estimates that pre-petition legal representation saves them \$6.93 for every \$1 invested (Casey Family Programs, 2024).

Administrative Feasibility

A benefit of this alternative is that it does not require any major infrastructure changes. Because pre-petition attorneys will be stationed in Virginia's nine legal aid offices, there are already physical structures and systems for the service to reside in. These centers are also strategically dispersed throughout the state, so they should be accessible for clients. The one part of administrative feasibility that may be challenging, though, is finding attorneys to fill the nine positions. Parent representatives in Virginia have been historically undertrained, underpaid, and overworked, which has resulted in a long-standing shortage of attorneys willing to represent parents (Reynolds, 2023). Although the pre-petition attorneys will receive fair salaries, it may be a challenge to find attorneys interested in dedicating themselves to the field of parent representation. Another challenge is that each year there are around 3,000 CPS cases annually that are eligible for pre-petition services (Virginia CPS, 2024). If each of the nine attorneys had a caseload of 80, they would only be able to tackle a quarter of the cases, leaving many families without the service. This alternative gets medium-high feasibility.

Political Feasibility

A 2025 budget proposal to establish a pre-petition pilot program failed in the Virginia General Assembly, lowering its political feasibility. Hope is not entirely lost, though. In 2024, they passed legislation that increased pay for attorneys representing parents and authorized for a maximum of two multidisciplinary legal offices to be created for parents in dependency cases (HB 893, 2024). HB 893 shows that with the right marketing, the General Assembly can get on board with upfront investments in

reducing the foster care population. There may also be ways to create pre-petition legal representation while circumventing the political process. For these reasons, political feasibility is medium.

Alternative 2: Cultural Competency Training

Cultural competency training for the child welfare sphere came into the limelight with the Minnesota African American Family Preservation and Child Welfare Disproportionality Act, which passed unanimously in the summer of 2024. Virginia could adopt its own version of Minnesota's act by requiring VDSS employees in the Division of Family Services to do annual training on cultural competency. Cultural competency training includes learning how to interact with families without making assumptions, look for family strengths, honor diversity, and recognize systemic racial biases. The policy will not be exclusive to African American families, but rather provide a holistic perspective on all disproportionately represented communities in the child welfare system, including other racial groups like Latino children.

To create a program appropriate for the needs of Virginia, VDSS should make an Equity and Cultural Competence Committee made of interested DFS employees and community stakeholders. This team will plan the training. The program will be modeled after New York City's, which involves a full-day training, two half-day sessions of small group case consultations facilitated by trainers, and a wrap-up session (De Jesús, 2016).

Effectiveness

In places where cultural competency training has been implemented, results have been positive. For example, the New York City Administration for Children's Services program improved caseworker's awareness, knowledge, and skills related to supporting culturally diverse populations. At the end of training, caseworkers felt more confident in talking about race, class, and culture, and applying that knowledge for their clients (De Jesús et al., 2016). There is also additional evidence that case-in-point pedagogy is beneficial for translating training into real-world action (Weng & Hubbard, 2022).

While this evidence shows that cultural competency training makes employees more educated on the diverse needs of families, it is less clear if this changes the number of families who are separated. Although different from state-mandated cultural competency training for employees, Title IV-E funding has provided stipends for education to individuals, which can include cultural competency training. In a study, children with a stipend-recipient as their caseworker were eight percentage points more likely to be reunited with their families, which would make a significant difference for Virginia's families (Leung & Willis, 2012). Assuming that cultural competency training also results in an 8 percentage point increase in reunification, this alternative could reduce the foster care population by 400 children. The accuracy of this estimate is a bit fuzzy. On one hand, this could be a low estimate because it does not account for children that will be kept out of the foster care system. On the other hand, the study

this estimation is based on used individuals who already had strong enough motivation to opt into the federal program.

Cost

If every one of the 3,063 employees in the Local Divisions of Family Services received cultural competency training, the cost would be around \$225,000. This number is calculated based on the typical prices of professional DEI training, which are administered by consulting companies. While this number may seem high, the cost-savings of a \$6.8 million decrease in foster care spending would cover the cost while reducing the non-financial costs of separating families.

Administrative Feasibility

Cultural competency training should not be too difficult for the committee to design. VDSS can use the Virginia Department of Education's mandatory module as a guide for what topics to include (VDOE, 2023). They can also look at other model examples, for instance, the New York City Administration for Children's Services' multi-day training that used the same committee model for the design process (De Jesús, 2016). A snag with administrative feasibility, though, is getting already overworked VDSS employees to engage with the material. The average caseworker is responsible for investigating and administering services to 56 families each year, many of which can be intense cases (HHS et al., 2022). While workload could decrease effectiveness, this training has medium administrative feasibility because of the replicable infrastructure.

Political Feasibility

Given current Republican-led initiatives to decrease diversity, equity, and inclusion initiatives, cultural competency training seems unlikely to get a strong foothold amongst the Virginia General Assembly and with the governor. Despite DEI's unpopularity, the fact that Minnesota's policy passed 120-0 suggests that Republicans could maybe get on board. Although the policy in Minnesota had failed every year since 2018, changes in language to include all disproportionately represented children got Republicans in Minnesota to take on the initiative. One Republican representative from Minnesota, Ben Davis, said he supported the legislation because "the relationship between a parent and a child is so important to God" (Perez & Fitzgerald, 2024).

A current Republican in the Virginia House of Delegates that may support this policy is Delegate Anne Ferrell Tata, who has foster care as a primary issue on her platform. She specifically wants to prevent children from ageing out of foster care, which this policy could achieve for 400 children. Political feasibility is medium because despite its

association with DEI, cultural competency training can be framed to appeal to all politicians who care about families.

Another reason political feasibility is not entirely low is because the Virginia Department of Education already requires educators to undergo cultural competency training via an online module (VDOE, 2023). This program is not as extensive as it must be for VDSS, but its existence shows that politicians may not have strong resistance to a program like this, despite its association with DEI initiatives.

Alternative 3: Early Childhood Tax Credit for Low-Income Families

Because there is a strong correlation between child maltreatment and poverty, it makes sense to offer an alternative that directly connects to family finances. A child tax credit is a financial benefit provided to families with children, aimed at reducing the tax burden on low-income households. An early childhood tax credit in Virginia would be \$1,000 for children ages 0-5 whose families are below the federal poverty line. This tax credit should be refundable so that families can receive the full amount even if they have already met their tax responsibility. This approach mimics the general trend of state-level child tax credits and most closely resembles Utah's program, and there are 16 states implementing similar initiatives (NCSL, 2024).

To start, this program would be a one-time payment so the state could evaluate the true impact of an early childhood tax credit on child maltreatment. It is important to note that child tax credits are associated with many other benefits for children, like decreases in child poverty, positive health impacts, and better educational outcomes (Collyer et al., 2023). These will not be explored in this analysis but may be positive externalities of interest to VPLC.

Effectiveness

Early childhood is the best time to intervene in poverty-adjacent neglect. While the age range of 0-5 may seem small, focusing the state child tax credit on children in this age group can have a massive impact. More than 40% of founded child maltreatment victims are children ages 0-5— 1,200 out of 5,000 kids in foster care are between ages 0-5 (VDSS, 2025). Child neglect between the ages of 0-5 also has the worst and longest-lasting damage on children, making this the most critical time to intervene (Adams, 2018).

Studies on the impact of a child tax credit on child maltreatment estimate the effect to be between 4 and 10% (Kovski et al., 2024; Bullinger et al., 2023). Assuming that all of these cases result in at least some home removal, 50-120 children could be kept out of foster care. Another benefit of this alternative is that it can decrease the severity of child maltreatment. A study on state-level tax credits found a 13% decrease in rates of hospital admissions for pediatric abusive head trauma (Bullinger & Boy, 2023).

Cost

Part of the reason for limiting the state tax credit to children ages 0-5 who live below the poverty threshold is to strategically balance child maltreatment prevention with spending. 13% of children 0-5 live below the poverty line, which is around 71,000 children (Annie E. Casey Foundation, 2024). The loss in revenue comes out to \$71 million, much higher than the costs of the other policies (Appendix C). Additionally, there are administrative experiences. The fiscal impact statement of a child tax credit that recently failed estimated around \$500,000 in administrative expenses (SB1378, 2025).

For this policy to pay off (assuming that each child kept out of foster care saves the state \$17,000), the state foster care population would have to decrease by 4,200 children, which is probably not possible; however, other positive externalities like a reduction in child poverty could make the price more palatable.

Administrative Feasibility

An early childhood child tax credit has high administrative feasibility, as it has been successfully implemented by 16 other states, many of which have similar age limits, refundable status, and dollar amounts (NCSL, 2024).

Political Feasibility

Virginia has not historically supported child tax credits. Most recently, the Virginia legislature shot down a one-time, \$300 child tax credit for children under 13 whose families make less than \$100,000 (SB1378, 2025). While no members of the Virginia legislature have explicitly spoken out on why they voted no, in general, Republicans are more wary of child tax credits. When the Republican US Senate Majority shot down an expansion of the federal child tax credit in 2024, their reasoning was that it “ isn’t tax relief — it’s a subsidy”(Kapur, 2024).

While the political feasibility for an early childhood tax credit is low, it is not entirely hopeless. The fiscal impact statement shows that the loss in revenue from SB1378 would have been \$235 million, which is much higher than the anticipated \$71 million for the early childhood tax credit. The lower price tag may make it more palatable to the opposition.

Outcomes Matrix and Recommendation

The matrices below summarize the findings in the alternatives analysis. Green squares represent the leading alternative for each criteria.

Cost Matrix

	Cost (dollars the policy requires for implementation)	Potential Cost-Savings (\$17,000 for every child kept out of foster care)	Cost-Effectiveness (cost to keep one child out of foster care)
Pre-Petition Legal Representation	\$650,000	\$11.2-12.2 million	\$902-\$984
Cultural Competency Training	\$225,000	\$6.8 million	\$563
Early Childhood Tax Credit	\$71.5 million	\$850,000-2 million	\$600,000- 1.4 million

*See appendix section for details on cost calculations

Other Criteria Matrix

	Effectiveness	Administrative Feasibility	Political Feasibility
Pre-Petition Legal Representation	660-720 Children	Medium-High	Medium
Cultural Competency Training	400 Children	Medium	Medium
Early Childhood Tax Credit	50-120 Children	High	Low

Based on the above matrices, **pre-petition legal representation is the best alternative for VPLC to pursue**. Of all the alternatives, it has the highest potential to reduce the number of family separations, costs so little that it will pay for itself in foster care savings, and has potential to be both administratively and politically feasible

The runner-up for this policy is cultural competency training, mainly because of its low cost and high cost-effectiveness. Although \$563 per child kept out of foster care is impressive, cultural competency training does not have the same capacity for change as pre-petition legal representation does— 400 compared to 660-720 children kept out of foster care. While pre-petition legal representation has the opportunity to expand to impact even more than 720 children, cultural competency training is capped at the number of employees in DFS. Cultural competency training, as a state program, is also not well-studied enough to have certainty in its effectiveness. Current studies focus on social workers who volunteer to take the training, meaning studies could be showing selection bias rather than effectiveness and administrative feasibility.

While the early childhood tax credit for low income families presents a positive picture of how financial support can reduce child maltreatment, it also does not measure up to the impact that pre-petition legal representation can have on families. The tax credit is more administratively feasible because it has been done more often and does not require as much staff as a fully-fleshed pre-petition legal representation program; however, the difference in administrative feasibility between the two policies is not enough to justify the price tag of the tax credit. Virginia may not have as strong of a blueprint to base pre-petition legal representation off of, but other states can and legal offices can help inspire the vision.

Overall, a state-wide pre-petition legal representation program will benefit many children and their families while also saving the state money on unnecessary spending.

Adopting and Implementing Pre-Petition Legal Representation

During the 2025 Virginia legislative session, VPLC pushed for budget amendments in both the House of Delegates and the Senate to fund a pre-petition legal representation pilot program, but neither amendment passed. While discouraging for political feasibility, there may be other ways to make pre-petition legal representation ready for implementation. VPLC does have permission from the state to set up two pre-petition pilot programs, so the root of the challenge is funding:

<i>Adoption Options</i>	
<p>Option 1: retry budget amendment route</p> <p>Although the budget amendments were unsuccessful this session, there seemed to be more support than in previous sessions. Additionally, this report unveils some of the marketing tactics that could be used to draw more stakeholders into the cause. Emphasizing the importance of family units (a parent rights argument) and the high cost-savings from this policy could change the outcome if VPLC tries this option again.</p> <p><i>Option drawbacks: will take a full year before this policy could possibly pass which endangers the viability of making two pilots, difficult to persuade legislature members into paying the upfront cost</i></p>	<p>Option 2: look for other funding sources</p> <p>One of the key conversations for drafting this report was a discussion between VPLC and Iowa stakeholders. Iowa has one of the most expansive pre-petition legal representation programs in the country, and they were able to fund it entirely with federal dollars. They built the funding by being reimbursed for other services available for Title-IV E funding (which Virginia is hardly using), and then using that reimbursement to hire pre-petition attorneys.</p> <p>Apart from federal funding, there may also be stakeholders invested in the mission. For example, legal aid offices or outside attorney offices may be willing to fund and support the program themselves. While the implementation strategy involves legal aid offices, there may be other routes via the court system that could be a viable alternative.</p> <p><i>Option drawbacks: coordination could be challenging, federal dollars unreliable with the Trump Administration</i></p>

Implementation Steps

Once pre-petition legal representation passes through the adoption stage, implementation should hopefully be smoother sailing. Below are steps for expanding and evaluating pre-petition legal representation:

Phase 1: Set-Up Offices

The first phase involves setting up two attorneys in legal aid centers. It is important that VPLC does a thorough job, as the relationship between them and the legal aid centers is essential for a relationship of trust and the recruitment of other legal aid centers in the future. VPLC can take the lead on identifying, recruiting, and training the two attorneys who will begin this work. Already, VPLC provides education on family law to legal aid attorneys, so this program can be expanded. Collaboration with other training programs, which has been budgeted for in the appendix of this report, is also possible. Regardless of the training program used, VPLC should collaborate with legal aid centers to ensure that attorneys meet ABA standards for representing parents. The process of finding and onboarding attorneys will likely take two months.

Phase 2: Establish Referral Pathways Through VDSS

The second phase is to establish referral pathways through VDSS to find clients for the program. VPLC and legal aid offices may need to advertise the program directly to parents to demonstrate its effectiveness. Additionally, VPLC should bring evidence to VDSS local offices and network, emphasizing how the program is cost-saving and can reduce the burden on currently overworked case workers. To expedite these steps, VPLC can reach out to Legal Services of New Jersey, who followed similar steps for building a relationship with their version of VDSS local offices.

Phase 3: Data Collection, Program Evaluation, and Continued Support

In the third phase, VPLC can support attorneys offering this service by collecting, managing, and displaying data. Data collection is crucial for identifying successes and areas for improvement, helping the offices work towards reducing the number of family separations. If an attorney seems to be underperforming, VPLC can assist them in finding additional training. Sharing this data with VDSS offices will help build a relationship of trust. Due to the lack of detailed legislation, VPLC can also help with program oversight.

Phase 4: Continue Expansion and Evaluation

Finally, in the fourth phase, once the program has been running for a year, VPLC can use the collected data to advocate for expansion. Presenting hard numbers and anecdotal evidence from families to members of the Virginia legislature can demonstrate the program's importance and the need for expansion. This can lead to passing legislation that allows the creation of more offices and increased funding.

Outside Stakeholders

VPLC can anticipate having a lot of supporters in the implementation phases of pre-petition legal representation, especially from the legal community. The American Bar Association, Casey Family Programs, and other highly regarded sources in the child welfare sphere have openly advocated for making pre-petition legal representation available in every state. While the program has not come to fruition in Virginia, the child welfare and legal community should be on board with making this happen. Even organizations like CASAs, who represent children in child maltreatment cases, believe in the importance of parents having quality representation because it improves outcomes for children.

Parents impacted by the child welfare system are also key stakeholders that can push pre-petition legal representation forward. Some parents have been very vocal about their experiences, such as Tiffini Wise, who has been an advocate for child welfare reform, highlighting the general awareness that poverty puts parents at an extreme disadvantage (Mahoney, 2023). While these parents may not be able to devote as much time to this cause, their stories are essential for making appeals to other stakeholders.

While support for pre-petition legal representation should be high, there are also stakeholders that could be resistant to this program. Legal aid centers, despite their commitment to providing legal support to the community, might see the pre-petition legal representation program as a burden on already strained resources. For example, Virginia has been facing an eviction crisis, which is overwhelming legal aid center helplines (Smith, 2024). This may be an issue for making pre-petition happen because funding may not be enough to make this policy happen. VPLC needs to take on informal leadership to provide support and security for legal aid centers as they take on this challenge, leveraging its wealth of knowledge and outside perspective.

Parents not involved with child welfare could also be a hindrance to implementation. Public opinion data shows that the majority of Americans do not think parents charged with neglect can improve (Riley, 2024). VPLC can continue advocacy efforts, demonstrating how their actions align with the broader goal of finding permanency outcomes for children.

Addressing Worst Case Scenarios

Despite laying out the phases, there is no guarantee that pre-petition legal representation will be successful. Because it will start as a pilot program, with only two offices, failure could threaten the potential of the program. Failures could include:

- *The program does not come to fruition*— as previously mentioned in the stakeholders section, legal aid centers have the choice to bear the responsibility of this program. If VPLC convinces the state (or other funding resources) to fund pre-petition programs, and the legal aid centers choose not to fill the positions, it would severely jeopardize the future of subsequent programs.
- *Low use of the service*— there is also the chance that even if legal aid centers get on board, VDSS refused to refer families to the program, which would inhibit parents' awareness and use of the service. Pre-petition legal representation is a buzzword, and even if parents hear of it outside VDSS, they may not understand what the service is and if they are eligible. Language and outreach will be essential for the success of the program.
- *Increased child endangerment*— while no evidence exists to support this conclusion, there is a chance that offering pre-petition representation to parents could continue or increase child maltreatment.

While VPLC will not be entirely responsible for the failure/success of pre-petition legal representation, they can help avoid failure by developing communication networks. While an attorney may not have the time or expertise to advertise their service, VPLC can use some of its resources to connect families to legal aid. Additionally, VPLC offers training to legal aid attorneys, so they can keep communication open to ensure the program comes into fruition. Even though failure is possible, as it is with all of the alternatives analyzed, setting up pre-petition legal representation is still the best path forward.

Conclusion

In conclusion, Virginia is far behind where it needs to be in keeping families together; however, pre-petition legal representation offers a feasible and effective solution. This approach has demonstrated significant success in other states, reducing the number of family separations and improving outcomes for children and their families. By providing legal support before a dependency petition is filed, parents are better equipped to navigate the complexities of the child welfare system and access necessary resources, ultimately preventing unnecessary separations.

Implementing pre-petition legal representation is a powerful first step towards addressing the issue of unnecessary family separation. This intervention directly supports parents in creating the best environment possible for their children, thereby reducing the likelihood of separation. While early childhood tax credits and cultural competency training could offer additional benefits, pre-petition legal representation stands out as the most immediate and impactful measure. It lays a strong foundation for further improvements in the child welfare system, ensuring that families receive the support they need to stay together.

Prioritizing the implementation of pre-petition legal representation is a critical and strategic move towards strengthening family units and improving child welfare outcomes in Virginia. By continuing to advocate for this alternative, VPLC can ensure that Virginia uses family separation as a truly last resort, in turn fostering a more supportive and just child welfare system.

Appendix

Appendix A. Pre-Petition Legal Representation Cost Analysis

Cost of Pre-Petition Legal Representation	
Attorney Salaries	9 x \$76,000 = \$684,000
Fringe Benefits	18.5% x \$684,000 = \$126,540
Training	\$1,000 x 9 = \$9,000
Computers	\$800 x 9 = \$7,200
Case-Related Expenses	\$40 x 80 cases x 9 = \$28,800
Total	\$855,540
Federal Reimbursement	\$855,540 x .23 = \$196,744
Total Cost to Virginia	\$658,765

Explanation and Assumptions:

These cost estimates were created in collaboration with Valerie from VPLC in Summer 2024. Some of these costs, like computers, will be one-time expenses but can serve as buffer room for future needs. The federal reimbursement estimate is also contingent on the Title-IV E prevention program being continued by the Trump Administration.

Appendix B. Cultural Competency Cost Analysis

Cultural Competency Training	
Cost of Full-Day and 2 Half-Day Instructors	$\$350 \times 12\text{hrs} \times 5 \text{ locations} = \$21,000$
Training Space	\$0 (VDSS has a training location in each region and/or some of the sessions can be virtual)
Gas Reimbursement for Full Training Day	$3,063 \text{ employees} \times .70 \text{ cents} \times 40 \text{ mile average} \times 2 \text{ days} = \$171,528$
Lunch for Full-Day Training	$\$10 \times 3,063 = \$30,063$
<i>Total</i>	\$222,591

Explanation and Assumptions:

This cost estimate assumes that the cultural competency committee in VDSS will model their program after the program in New York City. VDSS could deviate from this program set-up, making it more or less expensive. Additionally, the gas estimate reimbursement rate is based on the state standard, however, distances from employees to their regional offices may vary from the 40 mile estimate.

Appendix C. Early Childhood Tax Credit Cost Analysis

Cost of Virginia Child Tax Credit	
Number of Children Under 5 in Poverty	71,000
Tax Credit / Child	\$1,000
Tax Revenue Lost	\$71,000,000
Administrative Costs	\$500,000
<i>Total Cost</i>	\$71.5 million

Explanation and Assumptions:

This cost estimate for an early childhood tax credit is based off of the fiscal impact statement for a tax credit that recently failed to pass. While the number of children and the credit per child is different, the administrative costs and process for estimating revenue loss is calculated using the same methodology. This does rely on the assumption that this type of tax credit will not be harder and more expensive to implement than the previously proposed child tax credit.

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