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FOSTERING FUTURES IN VIRGINIA:
WHY IS IT NEEDED AND WHAT DOES IT ADD TO EXISTING
PROGRAMS?

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ABSTRACT

This article addresses the large population of foster children over the age of 13 who have the same need for stable outcomes as younger foster children. Older foster children face a greater challenge in achieving a stable outcome because of their age. With this challenge comes a greater likelihood of homelessness and involvement in the criminal justice system. This article examines the various programs in Virginia designed to address the challenges faced by older foster children, and particularly, a new program called Fostering Futures, which provides greater support specifically to older foster children.

INTRODUCTION

The goal of the foster care system in Virginia is to place children and youth in permanent loving families whether that be their family of origin or another family. Unfortunately, that does not always happen and the outcomes for foster children and foster youth who leave foster care without permanency are less than ideal.¹ However, programs are available to help foster youth become productive, self-sufficient members of society, but these programs are often limited in scope and purpose. As part of the budget for fiscal year 2016, the Virginia General Assembly amended the definition of child and created a new program known as Fostering Futures.² Fostering Futures tasks state and local social services departments with administering ongoing case management and other services for foster youth until the age of 21. Foster children who turned 18 on or after July 1, 2016, can participate in the program. This article explores how Fostering Futures supplements existing foster care programs in Virginia hopefully to create better outcomes for foster youth over the age of 18.

Part I discusses the current outcomes for children and youth in foster care. Part II explores the programs designed to improve these outcomes as well as their limitations. Part III focuses on the Fostering Futures program and how its implementation supplements existing programs to provide a chance for better outcomes for those in the foster care system.

¹ Throughout this paper, "foster youth" describes a young adult in foster care between the ages of 18 and 21, whereas "foster child" describes any child in foster care under the age of 18.

² H.B. 30, 2016 Gen. Assemb., Reg. Sess., ch. 780, item 346 L.2, at 320 (2016).

I. FOSTER YOUTH IN VIRGINIA

One of the main goals of any foster care system is to help children and youths find permanency. The Virginia Department of Social Services (VDSS) defines permanency as “establishing family connections and placement options for children in order to provide a lifetime of commitment, continuity of care, a sense of belonging, and a legal and social status that goes beyond the child’s temporary foster placement.”³ VDSS emphasizes several underlying principles that influence this definition, including the belief that “children do best when raised in families,” that “children’s needs are best served in a family that is committed to a child,” and that all children “need and deserve a permanent family.”⁴ Per VDSS policy, “permanency is best achieved through a legal relationship such as parental custody, adoption, kinship care or guardianship. Permanent stability is not permanency.”⁵ VDSS, thus, defines permanency to include not only placement stability, but also a legal custodial relationship.

To achieve this goal, returning to the child’s original home, relative placement, and adoption finalization qualify as permanency under this scheme, because they create a complete legal custodial relationship.⁶ However, permanent foster care, another planned permanent living arrangement, and independent living do not achieve permanency.⁷ Permanent foster care is not considered permanency, because, although the foster family has a strong legal bond with the foster child,⁸ legal custody remains with the local department of social services.⁹ Additionally, “another planned permanent living arrangement” is not considered permanency, because it requires court approval when a foster child is in long-term residential treatment and “has a severe and chronic emotional, physical, or neurological disabling condition.”¹⁰ Finally, independent living is not considered permanency, because it is used either as a transition for children who have been “admitted to the United States as a refugee or asylee,”¹¹ or as a selected goal for foster youth

³ VA. DEP’T OF SOC. SERV., CHILD AND FAMILY SERV. MANUAL ch. E, § 1.2, at 9 (2015) [hereinafter VDSS, 2015 MANUAL].

⁴ *Id.* ch. E, § 1.4, at 15–16.

⁵ *Id.* at 16.

⁶ *Id.*

⁷ *Id.* ch. E, § 1.1, at 3.

⁸ See VA. CODE ANN. § 63.2-908(C) (2017). Permanent foster parents have a greater legal bond with the foster child since the foster parents may consent to surgery, marriage, or apply for a motor vehicle and driver’s license on behalf of the child; however, the parents still have to inform the local department of social services of such actions.

⁹ *Id.* § 63.2-908(B).

¹⁰ *Id.* § 16.1-282.1(A2)(1) (2017).

¹¹ *Id.* § 63.2-906(B)(5) (2017).

who participate in Fostering Futures.¹² Thus, foster youth lack permanency through these avenues, because the local department of social services still serves as their legal guardian or custodian instead of creating a complete legal custodial relationship through adoption or placement with a relative.

Before fully exploring the outcomes for foster youth who lack permanency or alternative means to achieve stability, it is important to know more about the current foster population in Virginia. Statewide data indicates that as of December 1, 2017, there are 2,301 foster children and youth over the age of 13.¹³ That accounts for 44 percent of the foster children and youth currently in care.¹⁴ The Virginia Code allows local departments of social services to offer independent living and preparation for adulthood services to all children in foster care who are 14-years-old or older.¹⁵ VDSS regulations take this one step further by requiring all children over the age of 14 to receive these services based on the outcome of “an independent living needs assessment.”¹⁶ Currently, there are 637 foster children and youth with another planned permanent living arrangement, permanent foster care, or independent living as their goal, which accounts for 12 percent of the foster children and youth population.¹⁷ The number of older foster children and foster youth who are on track to exit foster care without permanency, however, is likely much greater. Unless the requirements of permanent foster care, independent living, or another planned permanent living arrangement are fully met according to the rules set by VDSS, the local department of social services will likely choose the goal of returning the child or youth to their original home, finding a relative placement, or looking to have them adopted. Local departments favor these options because they are less restrictive and focus on permanency despite creating unrealistic expectations.¹⁸

Surveys of foster youth aged 19 and 21 present evidence of poorer outcomes in education, interaction with the criminal justice system, homelessness, and substance abuse for former foster children who lacked permanency when they aged out of the system. Recently, Child Trends compiled these data along with data on the general population of 19 and 21-year-olds to generate a report specific to Virginia. According to these data, 66 percent

¹² See Va. Dep’t of Soc. Serv., Child and Family Serv. Manual, ch. E, § 14B, at 4 (2017) [hereinafter VDSS, 2017 Manual].

¹³ See Va. Dep’t of Soc. Serv., Snapshot of Children in Foster Care in Virginia (2017) [hereinafter VDSS, Snapshot].

¹⁴ See *id.*

¹⁵ Va. Code Ann. § 63.2-905.1 (2017).

¹⁶ See VDSS, 2017 Manual, *supra* note 12, ch. E, § 13, at 10.

¹⁷ See VDSS, Snapshot, *supra* note 13.

¹⁸ See VDSS, 2017 Manual, *supra* note 12, ch. E, § 11, at 13.

of former foster children finished high school or earned a GED by age 19, compared to 91 percent of Virginia youth in the general population.¹⁹ At age 19, 65 percent of former foster children attended school, which aligns with 68 percent of the general population of 19-year-olds; however, at age 21, those numbers drop to 31 percent and 52 percent, respectively.²⁰ By age 19, 18 percent of the former foster children surveyed had been incarcerated in the previous two years, and that number increases to 25 percent by the time they turn 21.²¹ Additionally, 13 percent of the 19-year-old former foster children experienced homelessness in the previous two years, and that number doubles to 27 percent by the time they turn 21 years old.²² Finally and notably, for both 19 and 21-year-olds surveyed, 16 percent had been referred for substance abuse treatment in the previous two years.²³

Overall, these data show that foster children who lack permanency are at a higher risk for poorer outcomes in areas related to education, housing stability, substance abuse, and incarceration. Additionally, these data support the idea that the number of foster children who leave the system without permanency will continue to grow as more children enter into and grow up in foster care, especially as 44 percent of the current foster care population is over the age of 13.²⁴

II. PROGRAMS CURRENTLY AVAILABLE

There are programs available to foster youth that promote permanency and better outcomes for youth leaving the system. However, these programs are often limited in scope, purpose, and services. This section explores several different programs and their limitations.

A. Education and Training Voucher Program

In 2001, the United States Congress passed the “Promoting Safe and Stable Families Amendments.”²⁵ Part of these amendments expanded the social security laws in place and created the "Education and Training Voucher Program" to help current and former foster children through federal and

¹⁹ See CHILD TRENDS, TRANSITION AGE-YOUTH FOSTER CARE IN VIRGINIA (2017), https://www.childtrends.org/wp-content/uploads/2017/09/Transition-Age-Youth_Virginia-1.pdf.

²⁰ See *id.*

²¹ See *id.*

²² See *id.*

²³ See *id.*

²⁴ See CHILD TRENDS, *supra* note 19.

²⁵ Promoting Safe and Stable Families Amendments, Pub. L. No. 107-133, 115 Stat. 2413 (2002) (amending scattered sections of 42 U.S.C. (Social Security Act)).

state funds.²⁶ Virginia currently participates in this program.²⁷ The purpose of the program is “to assist eligible youth in successfully completing a ‘post-secondary’ educational or vocational training program” through funding specific “goods and services.”²⁸ The goods and services covered include tuition, room, board, books, educational equipment, materials, and even childcare.²⁹ Current and former foster children and youth who qualify for the program can receive up to \$5,000 per state fiscal year.³⁰ As long as participants remain eligible, they may receive funding until the age of 23.³¹ While this program helps by offering financial assistance to pursue an education, it fails to address the permanency concerns noted above.

B. Great Expectations

In 2008, Virginia’s community colleges and philanthropists began supporting the Virginia Foundation for Community College Education to create the “Great Expectations Program.”³² The pilot program originally launched at five Virginia community colleges, but is now present at 21 community colleges across the Commonwealth.³³ This program provides support for foster children and foster youth by encouraging educational and employment opportunities.³⁴ Additionally, each participant is paired with an adult mentor who guides them through the process of choosing, applying for, and funding a community college education.³⁵ The mentor can also help overcome other barriers to success, such as transportation, scheduling, mentoring or tutoring needs, career planning, and budgeting.³⁶ Finally, participants in this program may be eligible for tuition grants to cover most, if not all, of their tuition and fees.³⁷

Since the program’s inception, 396 degrees or certificates have been awarded to participants.³⁸ In 2017, Great Expectations served 1,401 partici-

²⁶ *Id.* at 2422.

²⁷ See *Services for Older Youth*, VA. DEP’T SOC. SERV., <http://www.dss.virginia.gov/family/fc/independent.cgi>.

²⁸ VDSS, 2017 MANUAL, *supra* note 12, ch. E, § 14B, at 43.

²⁹ *Id.*

³⁰ See *id.*

³¹ See *id.* at 45.

³² *About Great Expectations*, GREAT EXPECTATIONS, <http://greatexpectations.vccs.edu/about/>.

³³ *Id.*

³⁴ VDSS, 2017 MANUAL, *supra* note 12, ch. E, § 14B, at 56.

³⁵ *About Great Expectations*, *supra* note 32.

³⁶ *Why it Works*, GREAT EXPECTATIONS, <http://greatexpectations.vccs.edu/why-it-works/>.

³⁷ VDSS, 2017 MANUAL, *supra* note 12, ch. 4, § 14B, at 56–57; *About Great Expectations*, *supra* note 32.

³⁸ GREAT EXPECTATIONS, <http://greatexpectations.vccs.edu>.

pants.³⁹ While this is certainly a robust and successful option, it is limited in that the focus is on school, like the voucher program above. Other barriers to educational success such as medical, housing, and social hurdles still exist, which an adult mentor may not be able to address. Plus, like the voucher program, permanency is not the main goal of this program.

C. Virginia Department of Aging and Rehabilitative Services

In the event that the foster child or youth has significant mental, physical, or intellectual disabilities, then the Virginia Department of Aging and Rehabilitative Services (DARS) is a service available to them. DARS offers transitional services that focus on the participant becoming increasingly independent and self-sufficient.⁴⁰ These services include case management and “opportunities for employment, higher education, independent living, and community involvement.”⁴¹ Additionally, these services can begin three years prior to the child or youth graduating high school and can be incorporated into their individualized education program.⁴² Finally, a local department of social services may also rely on DARS for support when there are foster children who lack the capacity to manage their personal affairs at age 18.⁴³ DARS and the local department of social services may work closely together to ensure that the foster child has a court appointed guardian upon turning 18.⁴⁴ While this service provides necessary aid and a path to permanency to some of the system's most vulnerable, it only serves a portion of former foster children, because not all will meet the qualifications to receive benefits from DARS.

D. Networking Groups

Throughout the country, there are multiple networks geared toward connecting and helping former foster children and foster youth. Some of these groups focus on policy change. For example, the Congressional Coalition on Adoption Institute has a foster youth internship program where former and current foster youth intern on Capitol Hill in Washington, D.C.⁴⁵ As interns, they create policy reports and recommendations for guiding federal

³⁹ *Why it Works*, *supra* note 36.

⁴⁰ VDSS, 2017 MANUAL, *supra* note 12, ch. 4, § 14B, at 57.

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.* at 17.

⁴⁴ *Id.*

⁴⁵ *Foster Youth Internship Program*, CONG. COALITION ON ADOPTION INST., <http://www.ccainstitute.org/programs/view/foster-youth-internship-about>.

foster care policy and reform.⁴⁶ Other groups, such as the Jim Casey Youth Opportunities Initiative, focus on making a foster child's transition to adulthood successful through community-based efforts and resources.⁴⁷ Unfortunately, Virginia does not have a Casey chapter, but this is still a resource that a former foster child or youth can access if they move out of the Commonwealth.⁴⁸ Finally, Virginia does have the Virginia Youth Advisory Board, SPEAKOUT, which brings together people ages 15 to 26 who have experience in the foster care system to provide input to VDSS in shaping and creating their policies.⁴⁹ These programs find success by connecting people and influencing policy change. However, these networks are limited in their effect unless a former foster child or foster youth knows about them or knows how to access them.

Ultimately, this selection of programs demonstrates that the current programs offered for former foster youth, aside from Fostering Futures, are extremely limited. The focus tends to be on education or services for disabled youth. Although networking programs exist, some are not in Virginia and others do not offer services that enable permanency even though they do offer a chance to affect the outcomes and policy for current and future foster children. Due to these limitations, a different type of program is needed to promote permanency while providing access to education and employment opportunities for children and youth currently in the system.

III. FOSTERING FUTURES

A. Origins

In 2008, Congress passed the "Fostering Connections to Success and Increasing Adoptions Act."⁵⁰ In part, Congress amended the definition of "child" in Title IV-E of the Social Security Act for the purposes of foster care, which allows states to change their definition of "child" to include individuals up to the age of 21, so long as certain criteria are met.⁵¹ The result is that foster youth are eligible for Title IV-E funds under the Social Securi-

⁴⁶ *Id.*

⁴⁷ VDSS, 2017 MANUAL, *supra* note 12, ch. 4, § 14B, at 17.

⁴⁸ *Our Work in States*, ANNIE E. CASEY FOUNDATION, <http://www.aecf.org/work/child-welfare/jim-casey-youth-opportunities-initiative/our-work-in-states/>.

⁴⁹ SPEAKOUT, FOSTER MY FUTURE, <http://dss.virginia.gov/fmf/>.

⁵⁰ Fostering Connections to Success and Increasing Adoptions Act of 2008, Pub. L. No. 110-351, 122 Stat. 3949 (amending scattered sections of 42 U.S.C. (Social Security Act)).

⁵¹ *Id.*

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ty Act.⁵² For states that choose to amend their definition of "child," any youth that meets eligibility requirements can receive a monthly stipend known as a maintenance payment as well as a yearly supplemental clothing stipend from the federal government.⁵³

In 2016, as part of a budget amendment, the Virginia General Assembly adopted Congress's amended definition of "child" and created the Fostering Futures Program, which extends services to individuals in foster care up to age 21.⁵⁴ As a part of this expansion, VDSS was charged with implementing regulations for the program and ensuring the regulations met the federal government's requirements.⁵⁵ According to VDSS, the ultimate goal of Fostering Futures is to assist the foster youth "in transitioning to full adulthood, becoming self-sufficient, and creating permanent, positive relationships."⁵⁶

B. Initial Eligibility Requirements

Unlike foster care where the child is part of the system and receives services no matter what, Fostering Futures requires that the foster youth meet and maintain certain eligibility requirements set forth by the federal government and VDSS.⁵⁷ The federal requirements, which VDSS adopted, provide that a foster youth must be

completing secondary education or a program leading to an equivalent credential, enrolled in an institution which provides post-secondary or vocational education, participating in a program or activity designed to promote, or remove barriers to, employment, employed for at least 80 hours per month, or is incapable of doing any of the activities [described above] due to a medical condition, which incapability is supported by regularly updated information in the case plan.⁵⁸

In sum, the foster youth is required to be enrolled in school, employed in some capacity, or to present documentation for why the youth cannot attend school or be employed.

⁵² *Id.*

⁵³ VDSS, 2017 MANUAL, *supra* note 12, ch. E, § 18, at 4.

⁵⁴ H.B. 30, 2016 Gen. Assemb., Reg. Sess. (Va. 2016).

⁵⁵ *Id.*

⁵⁶ VA. DEP'T OF SOC. SERV., CHILD AND FAMILY SERV. MANUAL, ch. I, § 1.12, at 73 (2016) [hereinafter VDSS, 2016 MANUAL].

⁵⁷ *Id.* ch. I, § 1.2.4, at 13–14 (stating that federal agencies will conduct periodic reviews to ensure compliance for eligible children).

⁵⁸ Fostering Connections to Success and Increasing Adoptions Act § 201(a).

VDSS created requirements in addition to the federal one outlined above. First, an eligible foster youth must turn 18 on or after July 1, 2016.⁵⁹ Second, the foster youth must have either been “in foster care in custody of a Virginia [local department of social services] at the time they turned 18,” or be “released from the [Virginia Department of Juvenile Justice] between ages 18 and 21 who were in foster care in custody of a Virginia [local department of social services] immediately prior to commitment to the [Virginia Department of Juvenile Justice].”⁶⁰ Third, the foster youth must sign a Voluntary Continuing Services and Support Agreement.⁶¹ The purpose of this agreement is to allow foster youth to exercise “his adult status as his own guardian to voluntarily authorize the [local department of social services] to have placement and care responsibility for him.”⁶² The document also outlines the ongoing eligibility requirements the foster youth need to meet to remain in Fostering Futures. A final requirement is that this document is presented to the Juvenile and Domestic Relations District Court to review and approve. Upon entry of an order, the foster youth is officially part of Fostering Futures.⁶³

C. Ongoing Eligibility Requirements

The Voluntary Continuing Services and Support Agreement outlines the rights and responsibilities of both the foster youth and the local department of social services.⁶⁴ Unlike foster children, who are eligible for foster care services and case management because they are under the age of 18, foster youth are now responsible for continuing to remain eligible for the program's services and case management. As such, first, the foster youth must meet one of federal requirements in the amended definition of “child” created in the Fostering Connections to Success and Increasing Adoptions Act of 2008.⁶⁵ That is, a foster youth must be in school, in a job, some combination of both, or have a documented medical reason for not participating in a school and/or job.⁶⁶ The foster youth must also agree to participate in services and planning for their future as well as report changes to their work.⁶⁷ Next, the foster youth must also provide documentation of continued eligi-

⁵⁹ VDSS, 2017 MANUAL, *supra* note 12, ch. E, § 14B, at 13.

⁶⁰ *Id.*

⁶¹ *Id.* at 16.

⁶² *Id.*

⁶³ *Id.* at 20.

⁶⁴ VDSS, 2017 MANUAL, *supra* note 12, ch. E, § 14B, at 16–17.

⁶⁵ Fostering Connections to Success and Increasing Adoptions Act § 201(a).

⁶⁶ *Id.*

⁶⁷ VDSS, 2017 MANUAL, *supra* note 12, ch. E, § 14B, at 16.

bility.⁶⁸ The documentation requirement includes “medical, academic, financial or legal records, leases, insurance coverage.”⁶⁹ These documents are necessary for a myriad of reasons, including verification of the initial eligibility criteria to receive Title IV-E funds that may change over time depending on other entitlement programs that the foster youth may receive.⁷⁰

The final responsibility worth noting is that the foster youth must live in a qualified setting.⁷¹ The purpose of this requirement is to “meet the needs of the [foster] youth for supervision and support as he or she moves towards independence.”⁷² Qualified supervised independent living settings include a foster family home, a licensed independent living apartment program, or another independent living arrangement of the foster youth’s choosing, which may be a dorm, an apartment, or even biological family including the home from which the foster youth was removed if appropriate and safe.⁷³ There are a few settings that do not qualify as supervised independent living settings. These include group homes, residential facilities, active duty military, and long-term incarceration.⁷⁴ While there are not many requirements to remain in Fostering Futures, a foster youth who does not meet these requirements may not remain in the program.⁷⁵

D. Benefits of Fostering Futures

Fostering Futures differs from the other programs mentioned above because it is more comprehensive. Most of the other programs focus on one facet of the foster youth’s life. The only comparable program is DARS, which is more comprehensive and focused on all aspects of the youth’s life, but is designed for youth and adults with serious mental, emotional, or physical disabilities that will likely require life-long services. Fostering Futures, thus, is designed to focus on the foster youth who does not have serious mental, emotional, or physical disabilities. The program also focuses on the foster youth as a whole while continually preparing the youth for more independence as an adult.

As previously mentioned, one benefit of Fostering Futures is that the foster youth receives Title IV-E funds, which includes two payments.⁷⁶ First,

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.* at 74–76, 80–81.

⁷¹ *Id.* at 17.

⁷² VDSS, 2017 MANUAL, *supra* note 12, ch. E., § 14B, at 17.

⁷³ *Id.* at 12.

⁷⁴ *Id.* at 20.

⁷⁵ *Id.* at 29.

⁷⁶ *Id.* at 12.

there is the monthly stipend known as a maintenance payment.⁷⁷ These “are intended to cover the foster youth’s costs for food, shelter, clothing, supplies, and personal incidentals.”⁷⁸ In reality, the current maintenance payment rate for foster youth in Virginia is \$644, which will not cover all of the foster youth’s living expenses, but certainly helps.⁷⁹ Second, the foster youth receives an annual supplemental clothing allowance.⁸⁰ The current rate in Virginia for this clothing allowance is \$473 dollars.⁸¹

In addition to these funds, Fostering Futures provides case management. VDSS regulations state that a local department of social services worker should provide case management, and that those qualified to do this have “completed training in transition services and support for young adults and is knowledgeable of resources available in the community.”⁸² This is important, because it gives the foster youth a human resource that knows of other supportive resources and services. The assigned caseworker then has the task of assisting the youth in “accessing all available resources to supplement the financial benefit and assist the [foster] youth in working towards independence.”⁸³ The caseworker also assists the foster youth in reaching educational, vocational, or employment related goals, finding safe and stable housing, and preparing the foster youth for budgeting and increased financial independence.⁸⁴ Finally, the caseworker continues “to promote permanency for the participant through lasting relationships with caring adults.”⁸⁵ Even though the foster youth did not achieve permanency while a foster child the same underlying principle of encouraging permanent and life-long connections is still present and a goal that Fostering Futures strives toward.⁸⁶

In looking at the case management services provided, the caseworker, then, is helping the foster youth transition from foster child to a fully independent adult. Although foster children could receive independent living services starting as early as age 14, before Fostering Futures foster children had limited ways of successfully transitioning out of the system once they turned 18.⁸⁷ While programs did and still exist to help with this transition,

⁷⁷ VDSS, 2017 MANUAL, *supra* note 12, ch. E, § 14B, at 24.

⁷⁸ *Id.*

⁷⁹ *Id.* ch. E, § 18, at 4.

⁸⁰ *Id.* ch. E, § 14B, at 24.

⁸¹ *Id.* ch. E, § 18, at 4.

⁸² VDSS, 2017 MANUAL, *supra* note 12, ch. E, § 14B, at 23.

⁸³ *Id.* at 24.

⁸⁴ *Id.* at 23–24.

⁸⁵ *Id.* at 24.

⁸⁶ *Id.* ch. E, § 1.4, at 16.

⁸⁷ *Id.*

the programs are only helpful if the former foster child knows about them and knows how to access them.⁸⁸ Further, as Part II discussed, even if the former foster child knows of these programs, the program are likely much more limited in scope, purpose, and funding than Fostering Futures. Ultimately, Fostering Futures gives the foster youth access to services and case management while allowing them time to transition to adulthood in a way that supports them and promotes continually their growing independence, which is critical to their success as an adult.

Another benefit of Fostering Futures is Medicaid eligibility. Medicaid is offered to all former foster children who were still in foster care and receiving Medicaid upon turning 18 and up to the age of 26.⁸⁹ However, Fostering Futures offers two additional medical coverage benefits. First, when a foster youth is participating in Fostering Futures, the caseworker “should ensure that the participant has access to medical care under Medicaid to 26.”⁹⁰ This is a benefit insofar as the caseworker ensures that the foster youth maintains eligibility and access to Medicaid by helping the foster youth with the process, which a foster youth may not otherwise know about or know how to navigate. Second, in the event that Medicaid does not cover a medical cost, the foster youth retains access to CSA funding to cover the costs through their caseworker, which is explained below.⁹¹

Fostering Futures participants may access funds through the Comprehensive Services Act for At-Risk Youth and Families (CSA).⁹² CSA was enacted “to create a collaborative system of services and funding that is child-centered, family-focused, and community-based” to serve at-risk youth and their families.⁹³ The funds used for these services come from both state and local monies.⁹⁴ Per CSA policy, “there are no parameters on types of services allowed,” and so long as the services are “deemed appropriate may be provided to the child and family.”⁹⁵ However, there are a few requirements to be met prior to CSA being able to fund services for foster youth. First, a Family Assessment and Planning Team meeting must be held.⁹⁶ This team meets to “identify and determine the complement of services required to

⁸⁸ See, e.g., Pam Fessler, *Foster Kids Face Tough Times After Age 18*, NAT'L PUB. RADIO (Apr. 7, 2010), <https://www.npr.org/templates/story/story.php?storyId=125594259>.

⁸⁹ VDSS, 2017 MANUAL, *supra* note 12, ch. E, § 14B, at 22.

⁹⁰ *Id.* at 23.

⁹¹ *Id.* at 26.

⁹² *Id.* at 23.

⁹³ *Id.* at 26.

⁹⁴ VA. CODE ANN. § 2.2-5211(C) (2017).

⁹⁵ OFF. OF CHILD. SERV., USER GUIDE FOR THE CHILDREN'S SERV. ACT 43-44 (2016), http://www.csa.virginia.gov/content/PDF/CSA_User_Guide_2016_Update.pdf [hereinafter OCS, USER GUIDE].

⁹⁶ VA. CODE ANN. § 2.2-5211(E) (2017).

meet [the] unique needs” of the youth.⁹⁷ As part of this meeting, an individual and family service plan is developed, which is intended to “strive to include creative, non-traditional services and natural supports, as well as more formal types of services.”⁹⁸

Once the service needs are identified, the next requirement is to determine if CSA can fund the service. Although there are several requirements for CSA to fund particular services, there are two in particular worth highlighting. One is that CSA is considered a funding stream of last resort because CSA funds “cannot be used to ‘supplant’ federal or state funds supporting existing services.”⁹⁹ If another funding stream is available, then that funding stream must be used prior to using CSA funds for the service. The other is that if a particular service does not meet “all the requirements of federal and state laws, regulations and policies, then CSA cannot pay.”¹⁰⁰ This means that if a foster youth does not meet the medical necessity criteria from Medicaid for certain services, then CSA would not be able to fund the service.¹⁰¹ In effect, foster youth would have to meet Medicaid criteria, have the service identified in their individual and family service plan as something to help meet the plan's goals, and CSA would still be the last available funding stream. While not likely to be used often, CSA funds being available to foster youth is an additional safety net that also helps foster youth achieve greater independence.¹⁰²

Finally, a foster youth may want to leave Fostering Futures or be asked to leave for not meeting eligibility requirements;¹⁰³ but Fostering Futures includes the benefit of returning to and exiting the program as many times as he or she wants to up until the age of 21.¹⁰⁴ Upon returning to Fostering Futures, the foster youth would still have to meet the initial eligibility requirements.¹⁰⁵ There is also no limit on the time elapsed between initially leaving Fostering Futures and re-entering the program.¹⁰⁶ Unfortunately, this was not the case in the past for foster youth participating in the limited independent living services who had only 60 days after terminating services to opt back in to the program before all of their funding and services

⁹⁷ *Id.* § 2.2-5208 (2017).

⁹⁸ OCS, USER GUIDE, *supra* note 95, at 44.

⁹⁹ *Id.* at 36.

¹⁰⁰ *Id.* at 38.

¹⁰¹ *Id.* at 38, 64.

¹⁰² See OFF. OF CHILD. SERV., FOSTERING FUTURES (2016),

http://www.csa.virginia.gov/content/PDF/CSA_User_Guide_2016_Update.pdf

¹⁰³ VDSS, 2017 MANUAL, *supra* note 12, ch. E, § 14B.6, at 27–28.

¹⁰⁴ *Id.* ch. E, § 14B.8, at 29.

¹⁰⁵ *Id.* at 29–30.

¹⁰⁶ *Id.* at 29.

ceased.¹⁰⁷ This policy change acknowledges the folly of youth and balances the youth's want of independence and the necessary benefits of social services support. VDSS suggests the local department of social services should “work closely with the [foster] youth to adjust strategies upon reentry to facilitate stability and progress,” as well as identify and address “factors that contributed to the previous exit . . . to reduce the likelihood of future termination.”¹⁰⁸

Fostering Futures ultimately capitalizes on the federal government's expansion of services for foster youth by overseeing the youth's eligibility and implementing support mechanism to help maximize the program's impact. When combined, the program's funding, case management, and increased access to Medicaid and other services beyond the age of 18 promote an alternative to permanency and independence as the foster youth transitions into adulthood and out of the foster care system.

CONCLUSION

While the goal of foster care is to find a permanent stable outcome for foster children through a legal custodial relationship between the child and his or her family, this does not always happen. In Virginia, currently 44 percent of the children in foster care are over the age of 13. As the children currently in foster care age and more children enter foster care, the need for permanent stable outcomes grows, but this will not always be achieved. The outcomes for former foster children in Virginia who lack permanency are not the ideal, as this essay explains. They have poorer outcomes than the general population at the same age in regard to education. They also face homelessness, incarceration, and substance abuse issues. When permanency is not viable, this population needs additional support to transition more successfully to adulthood. Fostering Futures is one of these support mechanisms.

There are a variety of programs available in Virginia to help with this transition such as the Education and Training Voucher Program, which offers monetary assistance for higher education; the Great Expectations Program, which provides a mentor and funding at Virginia community colleges; and the Virginia Department of Aging and Rehabilitative Services, which provides services to the severely mentally, physically, or emotionally disabled. Additionally, there are a variety of networking and community-based groups that provide limited services or focus on policy changes for

¹⁰⁷ *Id.* ch. E, § 14A.5, at 11–12.

¹⁰⁸ *Id.* ch. E, § 14B.8, at 29–30.

the future. Overall, these groups tend to focus on a specific segment of former foster children: those who are highly motivated and tend to be self-starters or those who will always qualify for assistance based on their high level of need. These programs leave out a segment that needs ongoing support, but may not be highly motivated or know where to seek such support. This is a gap that Fostering Futures fills.

Fostering Futures is designed for any former foster child who turned 18 on or after July 1, 2016, but has not yet turned 21. After initial qualification and by maintaining eligibility, the benefits of Fostering Futures for foster youth are numerous. The program provides funding through monthly maintenance payments and clothing allowances and increased access to services with a caseworker that has knowledge of the programs and services available. The caseworker promotes permanency and self-sufficiency and can also ensure that the foster youth continues to receive Medicaid or supplemental funding through CSA. Finally, Fostering Futures allows foster youth to opt-in or out of the program as many times as the youth wants until age 21. Fostering Futures, thus, is a much needed program that attempts to mitigate poorer outcomes for former foster children by helping participants transition to adulthood and independence, while allowing for an increased access to services, support, and funding.