

# 7

## SELECTING PERMANENCY GOALS

### TABLE OF CONTENTS

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- 7.1 Introduction**
- 7.2 Framework**
  - 7.2.1 Practice principles
  - 7.2.2 Legal excerpts
  - 7.2.3 Outcomes
- 7.3 Permanency goals**
  - 7.3.1 Return To Parent(s) or Prior Custodian(s)
  - 7.3.2 Adoption
  - 7.3.3 Placement with Relatives with Subsequent Custody Transfer
- 7.4 Concurrent planning**
  - 7.4.1 Six processes that support concurrent planning
  - 7.4.2 Three practices essential for concurrent planning
- 7.5 Shared decision making**
  - 7.5.1 Using Family Partnership Meetings prior to changes in goal
- 7.6 Factors to consider when choosing a permanency goal**
  - 7.6.1 Best interest of the child
  - 7.6.2 Determining when Return Home is not in child's best interest
  - 7.6.3 Determining when Adoption is not in the child's best interest

# 7

## SELECTING PERMANENCY GOALS

### 7.1 Introduction

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Permanency planning is a systematic process of taking prompt, decisive, goal-directed action to maintain children safely in their own homes or place them permanently with another family. It involves establishing enduring family relationships that provide lifelong commitment, continuity of care, a sense of belonging, and a recognized legal and social status.

Permanency planning begins with the first contact with the child and family and continues with a sense of urgency until the child leaves foster care to a permanent family. The child's health and safety shall be the paramount concern throughout the process ([§ 16.1-281 B](#)).

Decision making in permanency planning is a cooperative, system-wide effort among child welfare staff, the child or youth, birth parents or prior custodians, families, relatives, other significant individuals, judges, attorneys, and providers. Based on this collaborative effort, the local department of social services (LDSS) shall determine the permanency goal and begin providing services for the child and family as quickly as possible when the child enters foster care.

Permanency is achieved when the child leaves the foster care system to live with a permanent family. Selecting a specific permanency goal clarifies for everyone involved in the child's life the type of permanent home being sought for the child. Regardless of the permanency goal selected, every child also needs and deserves lifelong connections with people who are significant to the child. They can provide a safety net in difficult times, join in celebrations during joyous occasions, and offer regular and ongoing support.

Three permanency goals seek permanent families for the child and enable the child to leave the foster care system. Return Home shall be the primary goal for all children in foster care. Adoption and Placement with Custody Transfer to Relatives shall also be considered as concurrent permanency goals or shall be selected when reunification is ruled out. Adoption by a relative or non-relative is preferable to a transfer of custody as adoption affords a greater sense of belonging and permanency for the child. The selection of these two goals shall be based on the best interests and unique circumstances of the child.

## 7.2 Framework

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LDSS shall meet federal and state legal requirements, and should use sound practice principles to achieve desired outcomes and to guide decision making on selecting permanency goals for children in foster care.

### 7.2.1 Practice principles

Four fundamental principles in Virginia's Children's Services System Practice Model provide the philosophical basis and guide practice for decision making in selecting permanency goals.

#### **First, we believe that all children and communities deserve to be safe.**

- Safety comes first. Every child has the right to live in a safe home, attend a safe school, and live in a safe community. Ensuring safety requires a collaborative effort among family, agency staff, and the community.

#### **Second, we believe in family, child, and youth-driven practice.**

- Children and families will be treated with dignity and respect. The voices of children, youth, and parents are heard, valued, and considered in the decision making regarding safety, permanency, and well-being, as well as in service and educational planning and in placement decisions.
- Family members are the experts about their own families. It is our responsibility to understand children, youth, and families within the context of their own family rules, traditions, history, and culture.
- We engage families in a deliberate manner. Through collaboration with families, we develop and implement creative, individual solutions that build on their strengths to meet their needs. Engagement is the primary door through which we help youth and families make positive changes.

#### **Third, we believe that children do best when raised in families.**

- Children should be raised by their families whenever possible.

- Keeping children and families together and preventing entry into any type of out-of-home placement is the best possible use of resources.
- When children cannot live safely with their families, the first consideration for placement will be with kinship connections capable of providing a safe and nurturing home. We value the resources within extended family networks and are committed to seeking them out.
- When placement outside the extended family is necessary, we encourage healthy social development by supporting placements that promote family, sibling, and community connections.
- Placements in non-family settings should be temporary, should focus on individual children's needs, and should prepare them for return to family and community life.

**Fourth, we believe that all children and youth need and deserve a permanent family.**

- Permanency is best achieved through a legal relationship such as parental custody, adoption, kinship care, or guardianship. Placement stability is not permanency.
- Planning for children is focused on the goal of preserving their family, reunifying their family, or achieving permanency with another family.

### 7.2.2 Legal excerpts

The legal framework and specific requirements for selecting permanency goals for children in foster care are delineated in federal and state law. Key citations are provided below. See the law for complete language by clicking on the citation.

- **Provide child welfare services to prevent separating children from families, restore them with families, place in adoptive homes, and assure adequate care**

(§ [63.2-319](#)). Each local board shall provide, either directly or through the purchase of services subject to the supervision of the Commissioner and in accordance with regulations adopted by the Board, any or all child welfare services herein described when such services are not available through other agencies serving residents in the locality...

3. Preventing the unnecessary separation of children from their families by identifying family problems, assisting families in resolving these problems and

preventing the breakup of the family where preventing the removal of a child is desirable and possible;

4. Restoring to their families children who have been removed by providing services to the families and children;

5. Placing children in suitable adoptive homes in cases where restoration to the biological family is not possible or appropriate; and

6. Assuring adequate care of children away from their homes in cases where they cannot be returned home or placed for adoption.

- **Permissible goals in foster care plan**

(§ [63.2-906](#)). A. Each child who is committed or entrusted to the care of a local board ... shall have a foster care plan prepared by the local department. ....

B. Each child in foster care shall be assigned a permanent plan goal to be reviewed and approved by the juvenile and domestic relations district court having jurisdiction of the child's case. Permissible plan goals are to:

1. Transfer custody of the child to his prior family;

2. Transfer custody of the child to a relative other than his prior family;

3. Finalize an adoption of the child;

4. Place the child in permanent foster care;

5. If the child is admitted to the United States as a refugee or asylee, transition to independent living; or

6. Place the child in another planned permanent living arrangement in accordance with subsection A 2 of § [16.1-282.1](#).

- **Child's health and safety paramount concern; plan to return child to birth parents or prior custodians**

([The Adoption and Safe Families Act of 1997 \(PL 105-89\)](#)). (A) in determining reasonable efforts to be made with respect to a child...and in making such reasonable efforts, the child's health and safety shall be the paramount concern; (B)...reasonable efforts shall be made to preserve and reunify families—(i) prior to the placement of a child in foster care, to prevent or eliminate the need for

removing the child from the child's home; and (ii) to make it possible for a child to safely return to the child's home;

(§ [16.1-281](#)). B. ...If consistent with the child's health and safety, [the foster care] plan shall be designed to support reasonable efforts which lead to the return of the child to his parents or other prior custodians within the shortest practicable time which shall be specified in the plan. The child's health and safety shall be the paramount concern of the court and the agency throughout the placement, case planning, service provision and review process.

- **When reasonable efforts are not required to reunite child with birth parents**

(§ [16.1-281](#)). B. The local board or other child welfare agency having custody of the child shall not be required by the court to make reasonable efforts to reunite the child with a parent if the court finds that (1) the residual parental rights of the parent regarding a sibling of the child have previously been involuntarily terminated; (2) the parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other state, the United States or any foreign jurisdiction that constitutes murder or voluntary manslaughter, or a felony attempt, conspiracy or solicitation to commit any such offense, if the victim of the offense was a child of the parent, a child with whom the parent resided at the time such offense occurred or the other parent of the child; (3) the parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other state, the United States or any foreign jurisdiction that constitutes felony assault resulting in serious bodily injury or felony bodily wounding resulting in serious bodily injury or felony sexual assault, if the victim of the offense was a child of the parent or a child with whom the parent resided at the time of such offense; or (4) based on clear and convincing evidence, the parent has subjected any child to aggravated circumstances, or abandoned a child under circumstances which would justify the termination of residual parental rights pursuant to subsection D of § [16.1-283](#).

(§ [16.1-283](#)). E. The residual parental rights of a parent or parents of a child who is in the custody of a local board or licensed child-placing agency may be terminated by the court if the court finds, based upon clear and convincing evidence, that it is in the best interests of the child and [the same itemized list as in § [16.1-281 B](#) directly above]....

The local board or other child welfare agency having custody of the child shall not be required by the court to make reasonable efforts to reunite the child with a parent who has been convicted of one of the felonies specified in this subsection

or who has been found by the court to have subjected any child to aggravated circumstances.

- **If cannot return child to prior family, plan to place child with relative with subsequent transfer of custody or in adoptive home, or explain why permanent foster care is the plan**

(§ [16.1-281 B](#)). If the department or child welfare agency concludes that it is not reasonably likely that the child can be returned to his prior family within a practicable time, consistent with the best interests of the child, in a separate section of the plan the department, child welfare agency or team shall (a) include a full description of the reasons for this conclusion; (b) provide information on the opportunities for placing the child with a relative or in an adoptive home; (c) design the plan to lead to the child's successful placement with a relative if a subsequent transfer of custody to the relative is planned, or in an adoptive home within the shortest practicable time, and if neither of such placements is feasible; d) explain why permanent foster care is the plan for the child or independent living is the plan for the child in cases involving children admitted to the United States as refugees or asylees who are 16 years of age or older and for whom the goal is independent living. "Independent living" as used in this section has the meaning set forth in § [63.2-100](#).

- **Petition to achieve the permanency goal**

(§ [16.1-282.1](#)). A. In the case of a child who was the subject of a foster care plan filed with the court pursuant to § [16.1-281](#), a permanency planning hearing shall be held ...

To achieve the permanent goal, the petition for a permanency planning hearing shall seek to (i) transfer the custody of the child to his prior family, or dissolve the board's placement agreement and return the child to his prior family; (ii) transfer custody of the child to a relative other than the child's prior family, subject to the provisions of subsection A1; (iii) terminate residual parental rights pursuant to § [16.1-277.01](#) or [16.1-283](#); (iv) place the child in permanent foster care pursuant to § [63.2-908](#); (v) if the child has been admitted to the United States as a refugee or asylee and has attained the age of 16 years or over and the plan is independent living, direct the board or agency to provide the child with services to transition from foster care, or (vi) place the child in another planned permanent living arrangement in accordance with the provisions of subsection A2. In cases in which a foster care plan approved prior to July 1, 2011, includes independent living as a goal for a child who is not admitted to the United States as an asylee or refugee, the petition shall direct the board or agency to provide the child with services to transition from foster care.

### 7.2.3 Outcomes

Selecting and pursuing permanency goals for children in foster care are essential to achieving one of the permanency outcomes required in the federal Child and Family Services Review. The outcome and specific measures are listed below:

#### **Outcome 1: Children having permanency in their living situation.**

- More children leave foster care and achieve permanency.
- More children are reunified with their family.
- More children experience sustained adoptions.
- More children live with relatives who have legal custody.
- Children achieve permanency with increased timeliness.
- Children experience shorter lengths of stay in foster care.
- Fewer children re-enter foster care.

## 7.3 Permanency goals

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All efforts shall be made to pursue one of three permanency goals for every child in foster care:

- Return Home.
- Adoption by a relative or non-relative.
- Placement with Custody Transfer to a Relative.

The goal of reunifying the child with birth parents or prior custodians is, in most cases, the best plan for a child. If the service worker concludes that it is not reasonably likely that the child can be returned to his or her prior family within a practicable time, the service worker shall explore all opportunities for placing the child permanently in an adoptive home or with relatives. The service worker selects the goal of Adoption by a relative or non-relative or Placement and Custody Transfer to a Relative based on the best interests of the child ([§ 16.1-281 B](#)).

While the service worker works to reunify the child with the family, the service worker should develop a concurrent permanency plan of adoption or transfer of custody to a relative at the same time (see [Section 7.4](#)). Pursuing concurrent, rather than sequential, permanency options leads to more timely permanency decisions for the child.



### 7.3.1 Return To Parent(s) or Prior Custodian(s)

Permanency is achieved under this goal by returning the child and transferring legal custody to the birth parents or prior custodian when it can be safely accomplished. Reunification is the planned process of safely reconnecting children to their families and their communities. The service worker shall make reasonable efforts to return the child to his parents or prior custodians within the shortest practicable time ([§ 16.1-281 B](#)). This goal shall always be selected when a child comes into foster care unless aggravated circumstances exist that would indicate reunification is not in the child's best interest ([§§ 16.1-281 B](#) and [16.1-283 E](#)).

### 7.3.2 Adoption

Permanency is achieved under this goal when the adoption of the child by a relative or non-relative has been finalized. Adoption is a planful process that provides the same legal and social status for a child afforded to children born to the parent(s). The selection of adoption shall consider “all relevant factors, including the birth parent(s)' efforts to obtain or maintain legal and physical custody of the child; whether the birth parent(s) are currently willing and able to assume full custody of the child; whether the birth parent(s)' efforts to assert parental rights were thwarted by other people; the birth parent(s)' ability to care for the child; the age of the child; the quality of any previous relationship between the birth parent(s) and the child and between the birth parent(s) and any other minor children;...” ([§ 63.2-1205](#)).

### 7.3.3 Placement with Relatives with Subsequent Custody Transfer

Permanency is achieved under this goal when the child is placed with relatives and legal custody is transferred to the relatives. The selection of this goal shall be made “if the department or child welfare agency concludes that it is not reasonably likely that the child can be returned to his prior family within a practicable time, consistent with the best interests of the child, [and] in a separate section of the service plan, the department... shall (a) include a full description of the reasons for this conclusion; (b) provide information on the opportunities for placing the child with a relative or in an adoptive home; (c) design the plan to lead to the child's successful placement with a relative if a subsequent transfer of custody to the relative is planned, or in an adoptive home within the shortest practicable time.” ([§ 16.1-281](#)).

## 7.4 Concurrent planning

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Concurrent planning is a practice that facilitates permanency planning for children in foster care. The definition of concurrent planning is a structured approach to case management which requires working towards family reunification while, at the same time, *establishing* and *working towards* an alternative permanency plan. Concurrent planning is used with children who have a permanency goal of Return Home but have a poor prognosis for Return Home. In most cases, the concurrent plan will be placement with a relative with subsequent transfer of custody or adoption. The Adoption and Safe

Families Act (ASFA) allows the LDSS to engage in concurrent planning while making reasonable efforts to reunite the family. Concurrent planning replaces sequential planning in foster care by simultaneously exploring possible relative options and/or identifying a resource family that can serve as both a foster and adoptive family to a child.

The desired outcomes from concurrent planning are decreased length of stay in foster care, fewer placement moves, and fewer children in long-term foster care. These outcomes help maintain continuity of care for children and, thus, healthier attachments to caretakers.

ASFA requires that once an agency files a petition to terminate parental rights (TPR), it begins the process of recruiting, identifying, and approving an adoptive home for the child. LDSS service workers do not need to wait until the TPR order is final to begin adoption recruitment. The intent of concurrent planning is to reduce delays in finding permanent homes for children. Service workers no longer have to eliminate one goal before working toward another for a child.

The goal of permanency planning is to assure that children are in safe, permanent homes as quickly as is consistent with their health, safety, and well-being while recognizing the urgency caused by the child's sense of time.

#### 7.4.1 Six processes that support concurrent planning

- **Determine paternity early.** Not only do birth parents have a right to receive reunification services, but limited resources should not be wasted on providing services to someone who is not the birth parent.
- **Early permanency assessment.** To determine whether a concurrent plan is needed, the service worker *shall* complete a [Permanency Planning Indicator](#) with the parents during the initial weeks of foster care. Documentation from other individuals and sources may be included. The Permanency Planning Indicator identifies family strengths that indicate strong potential for reunification as well as indicators of weak potential for reunification. The assessment is done once, as early in the process as possible, to determine if the child needs placement into a resource family. The permanency assessment is not a risk or safety assessment. Reassessment of safety factors related to the child's return to the parents consists of review of the parent's visitation with the child and progress with the case plan.

There are five weakness indicators on the assessment that always warrant a concurrent plan. They are extreme conditions making family reunification a very low probability: catastrophic prior abuse, dangerous life style, significant CPS history, and inherent deficits from severe mental illness. The overall strengths and weaknesses identified in the assessment are weighed to determine whether a concurrent plan is needed for a child.

The potential for reunification assessed through completion of the Permanency Planning Indicator helps to determine the appropriate placement for the child and helps the service worker to be realistic with the parents. A poor indicator of reunification does not justify reducing the level of reunification services provided to the family.

- **Early relative search and permanency assessment.** A thorough identification of extended family members is completed with the parents and other sources. Relatives are assessed for their appropriateness to provide a temporary and a permanent home to the child. Interstate referrals are initiated as quickly as possible.
- **Service plan content.** The service plan indicates what the permanency planning goal is for the child and the concurrent goal. The plan delineates the objectives and services for both plans. Strength and weakness information from the Permanency Planning Indicator is incorporated into the plan.
- **Match resource families with children from families with a poor prognosis for reunification.** Families may be dually approved as foster and adoptive families. When a child with a poor prognosis for return home does not have a potential placement with a relative as the concurrent plan, the child is placed with a family who can be available to meet the child's needs for as long as necessary either through adoption or foster care. There may be a planned placement from a temporary foster home into a resource family.
- **Explore voluntary relinquishment.** Parents need to understand all of their options in regard to permanency planning, including making a voluntary plan for adoption of their child, if they are going to be truly empowered to choose the future that is best for their child and themselves. This option is discussed when the choices of permanency planning goals are introduced to the parents.

#### 7.4.2 Three practices essential for concurrent planning

- **Establish and maintain firm timelines.** The case plan details the timelines for service delivery and achievement of outcomes. Parents need to be regularly reminded of the timelines.
- **Use full disclosure.** Parents have a right to know what foster care and permanency planning is about as they ultimately decide the outcome of the case through their behaviors and choices. Full disclosure is the respectful discussion with parents so that they will have clear information about the following:
  - Reunification standards and expectations.

- Parent's rights and responsibilities.
  - Importance of staying connected to their child.
  - How foster care, by its very nature, has the potential to cause harm to their child.
  - How a permanent placement is so vital to their child's well-being.
  - Factors in the family's history that may make reunification more difficult.
  - Consequences of not reunifying and the steps the service worker is taking to provide an alternative permanency safety net for the child through identification and implementation of a concurrent plan.
- **Explore permanency with caregivers.** In addition to full disclosure to parents about concurrent planning, equal candor shall be used with all other parties involved, including the child, the court, the foster parents, CASA, attorneys, and relatives.

## 7.5 Shared decision making

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In order to achieve timely permanence, effective planning for children is required. Effective planning requires the ability and willingness to make decisions based on the greatest amount of pertinent information and with the input of a team of individuals committed to the best interest of the child.

Benefits of shared decision making in selecting permanency goals and permanency planning for the child include:

- **Consideration of all facts and viewpoints.** It is often difficult to decide if a home is, or ever can be, adequate for a particular child; and if not, to decide what other living arrangement is most suitable. Shared decision making lessens the possibility of bias and error. All factors should be weighed carefully and the plan chosen that has the best chance of success for the child under the circumstances.
- **Shared responsibility.** The serious consequences of selecting a permanency goal and other permanency planning decisions mandate that no one person make these decisions alone. Responsibility is best shared with the child, family, and other partners who have knowledge and insight to ensure the best decisions are made. Family Partnership Meetings should be used prior to changes in goals, and may be used for other permanency planning decisions. Collaboration with other knowledgeable people provides the best opportunity that the best permanency plan will be made. The use of shared decision making provides

sound recommendations to the court and shares the significant responsibility for consequences of fateful decisions.

- **Families as experts.** Family Engagement principles are based on the fact that families have the most information about themselves and that information is critical for decision making. Parents need to be fully informed of their rights and responsibilities and of the consequences of their behavior. Extended family and kin can be a resource for support to the parents and child, as well as a potential permanent resource. With their knowledge of the situation and involvement in the decision-making and planning process, these roles can be maximized. The communities in which families live also provide many of the resources and support that family's need. The families' link to their community is a critical piece in decision making. Community members should be seen as key partners in planning for children.
- **Professional collaboration.** LDSS and other agencies involved with the child and family also have key information and supportive services that need to be coordinated in decision making and planning. All of these partners should be involved in sharing information for the purpose of well-informed decisions and planning for the child with a focus on safety and permanence. Other key partners in the shared decision-making process in permanency planning are the courts and the Judge. Judges, attorneys, and Guardians ad Litem all need complete information in order to conduct their various roles and to make well-informed decisions. It is important to include the attorneys and Guardians ad Litem in the agency reviews and to solicit their perspectives on the case. When going before the court, the service worker shall ensure that the all court reports include complete, concise, and relevant information so that the judge can make well-informed decisions.

### 7.5.1 Using Family Partnership Meetings prior to changes in goal

A Family Partnership Meeting should be held prior to changing the permanency foster care goal for the child. This team approach involves partnering with family members in decision making throughout the family's involvement with the child welfare system. A facilitated team collaborates with the family on key decisions to ensure safety, a permanent family, and lifelong connections for the child who is at high risk of being placed out of the home or who is in foster care, building upon the strengths of the child, family, and community (see [Section 2.7](#)).

In changing the permanency foster care goal for a child, Family Partnership Meetings should be scheduled as described below:

- **Reunification.** This meeting is scheduled when the risk level is reduced and parental progress and ability to protect and provide safety for the child is recognized. The team determines if the child can safely return to his or her own family, and a reunification meeting should be held before overnight visits

begin. The team also outlines the process for visitation and the supports that the family will utilize in order to be successful.

- **Adoption by relatives or non-relatives.** This meeting should be scheduled when the service worker determines that the plan for reunification has not been successful, efforts to revise the plan have been made, and the team determines that the progress by parents has not been sufficient to reduce risk. At this meeting, the need for a change in the goal for the child would be discussed. This meeting should be scheduled **within two (2) weeks** of the request by any party for the meeting and before a change in goal is requested by the LDSS by filing the petition to the court.
- **Placement with Relatives with Custody Transfer.** This meeting should be scheduled when the service worker determines that the plan for reunification has not been successful, efforts to revise the plan have been made, and the team determines that the progress by parents has not been sufficient to reduce risk. At this meeting, the need for a change in the goal for the child would be discussed. This meeting should be scheduled **within two (2) weeks** of the request by any party for the meeting and before a change in goal is requested by the LDSS by filing the petition to the court.

## **7.6 Factors to consider when choosing a permanency goal**

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When determining the best permanency goal for a child, the services worker shall consider:

- The child's best interests.
- The child's long-term needs, including the need for an enduring and nurturing family relationship that is safe, stable, and provides continuity of care.
- The child's bond to individuals in existing relationships.
- The child's over-all need for safety, permanency, and well-being.

### **7.6.1 Best interest of the child**

The child's best interest includes physical safety (e.g., food, shelter, health, and clothing) and emotional well-being. Best interest decisions are made throughout the life of the case by courts, service workers, and others with the authority to require and implement change. Best interest considerations are made from the time a child first becomes known to LDSS and throughout the child's involvement with the child welfare system.

Best interest decisions related to selecting the permanency goal include consideration of a wide and comprehensive range of issues. These decisions should

only be made with constant, open communication with the child, family, and other interested individuals. Important factors to be considered include, but are not limited to, the following:

- **Safety of the child.** The health, safety, and/or protection needs of the child including the capacity of the caretakers to provide a safe home and adequate food, clothing, and medical care. The existence of domestic abuse in the home, in the past or currently, and how that abuse affects the child emotionally and impacts the child's safety.
- **Stability for the child.** The duration, stability, and adequacy of the child's current living arrangements and the desirability of maintaining continuity
- **A permanent family.** A permanent, long-term stable family meets the unique needs of the child for stability and continuity of relationships with parents, siblings, other relatives, other significant adults, the child's community, cultural traditions, and religious or spiritual commitments.
- **Commitment to care for the child.** A commitment to building upon the child's strengths and meeting his or her needs, including educational, medical, and behavioral health needs. The motivation of the parties involved in caring for the child and their capacities to give the child unconditional love, affection and guidance. Commitments to provide the child the care, treatment, and guidance that will assist the child develop over time into a self-sufficient adult.
- **Existing relationships.** Knowledge of the child's bonds to the adults in his life is critical to goal selection and placement. Whenever possible, the goal for a child should reflect a plan to achieve permanency with adults to whom the child has a strong attachment. The child's bonds should be assessed by professionals qualified to do so or, whenever possible, the child's preference should be sought and should drive the goal selection process.
- **Community and family connections.** Maintaining the child's sense of continuity and safety includes respecting and reinforcing connections with his or her family and community. The child's need to maintain connections with his or her siblings, school, church, social groups, and other individuals important to the child may all impact the child's adjustment to and comfort in another family.
- **Parents' wishes.** A child's parents may decide that they no longer want to work toward reuniting with the child. The parents may want to have the child placed with a relative on a permanent basis. The parents may wish to relinquish their parental rights and sign relinquishment papers. They may wish to enter into a Post-Adoption Contact and Communication Agreement (PACCA).

- **Child's wishes.** In making this determination, the service worker should consider whether the child is of an age and level of maturity to express a reasonable preference and understand consequences of choices.
- **Child's sense of time.** Children have a different sense of time from adults. What seems like a short family disruption or a brief separation to adults may be a very painful and intolerably long period for children. In general, younger children are less able to tolerate periods of separation than older children. Timely moves to a permanent home are critical in reducing the damage of separation for the especially young child in foster care.

### 7.6.2 Determining when Return Home is not in child's best interest

Through the shared decision-making process, the service worker and supervisor may determine that the permanency goal of Return Home is not in the child's best interests. When this is the case, one or more of the following conditions shall be documented:

- The child has been abandoned by the parent(s) and their identity cannot be determined. After three months no one has come forward to identify or claim a relationship to the child ([§ 16.1-283 D](#)).
- The parent(s) have disappeared or failed to maintain continuous contact with the child after foster care placement for a period of six months or more ([§ 16.1-283 C1](#)).
- Living with the parent(s) would be dangerous and detrimental to the child's health and welfare ([§ 16.2-283 B](#)).
- The parent(s) would be dangerous and detrimental to the child's health and welfare ([§ 16.1-283 C](#)).
- Conditions in the family situation, including parent/child or sibling relationships, are harmful to the child ([§ 16.1-283 B](#)).
- The parent has been convicted of a serious crime such as:
  - Murder, voluntary manslaughter, a felony attempt, conspiracy, or solicitation to commit such an offense against: (i) a child of the parent, (ii) a child with whom the parent resided at the time of the offense, or (iii) the other parent of the child.
  - Felony assault or bodily wounding resulting in serious bodily injury or felony sexual assault of: (i) a child of the parent or (ii) a child with whom the parent resided at the time of the offense. Serious bodily injury means bodily injury resulting in substantial risk of death, extreme physical pain,



protracted or obvious disfigurement, or protracted loss or impairment of a bodily member, organ, or faculty.

- Crime where a parent has subjected any child to aggravated circumstances. Aggravated circumstances mean torture, chronic or severe abuse, or chronic or severe sexual abuse where the victim is: (i) a child of the parent or a child with whom the parent resided at the time such conduct occurred and included the failure to protect a child from such conduct where that conduct or failure to protect (i) demonstrates depraved indifference to human life, or (ii) resulted in the death of a child or serious bodily injury to a child. Chronic abuse or chronic sexual abuse means recurring acts of physical abuse that place the child's health, safety or well-being at risk. Severe abuse and severe sexual abuse may include an act or omission that occurred only once but meets the definition of "aggravated circumstances" (§§ [16.1-281 B](#) and [16.1-283 E](#)).

The LDSS having custody is not required to make reasonable efforts to reunite the child with a parent convicted of a serious crime against such child or any other child who resided with such parent at the time of such offense (§ [16.1-283 E](#)).

- A sibling of the child has had parental rights involuntarily terminated (§ [16.1-283 E and F](#)).
- The parent(s) has requested to be relieved permanently of responsibility for the child (§ [16.1-277.02](#)).
- One or both of the parents have died and the surviving parent or family members are unable or unwilling to take responsibility for the child (§ [16.1-283 C](#)).

### **7.6.3 Determining when Adoption is not in the child's best interest**

When the child cannot be returned home, the service worker shall fully explore adoption by relatives and non-relatives. This process should include discussing the advantages of adoption with the child, family members, and other partners in the decision-making process. The service worker shall explain that adoption:

- May not require the child to be totally separated from birth parents.
- May allow the child choices such as keeping his or her birth name.
- Provides the most permanent legal relationship for the child.
- Provides permanent family connections throughout the child's life, not just until the child becomes an adult.

- May include a Post-Adoption Contact and Communication Agreement (PACCA) (see [Section 9.12](#)).
- May allow a Federal adoption tax credit for eligible taxpayers based on reasonable and necessary expenses related to a legal adoption (see Adoption Assistance, [Section 2.8.4](#), Chapter F. Adoption,).
- May include Adoption Assistance payments if applicable.

The service worker should explore any concerns the child, family members, or other caring adults may have with adoption and explore ways to resolve those concerns. The purpose of these conversations is to allow these individuals to make informed decisions about adopting the child, with input from the child and family. It is important to respect the right of relatives to choose whether adoption or transfer of custody best meets the unique circumstances of their family and the needs of the child.

After these thorough discussions, the service worker and supervisor may determine that adoption as a permanency option is not appropriate when:

- The family decides that terminating parental rights and adoption is not in the child's best interests;
- The child, age 14 years and over, does not consent to adoption and the circuit court finds that it is not in the child's best interest to be adopted ([§ 63.2-1202.3](#)); or
- The Family Partnership Meeting determines that adoption by a non-relative is not in the best interests of the child.