



Office of Children's Services
Empowering communities to serve youth

CHINS and CSA Parental Agreements

New Coordinator Academy

March 2018

Carol Wilson

Office of Children's Services

Why do we have CSA Parental Agreements?

- CSA Parental Agreements were created as a way to solve a problem.
- Problem: How do we help parents of children with severe emotional/behavioral problems access residential treatment without requiring parents to go to court, work with the LDSS, or even relinquish custody?
- Children with emotional/behavioral needs were considered either not eligible for CSA or non-mandated.

Problem

- Parents might be told that the only way CSA could fund residential treatment was for the parent to relinquish legal custody, have the court determine the child to be in need of services and placed in foster care. This would put the child in the “mandated” CSA population.
- An alternative was the non-custodial agreement which permitted parents to retain legal custody; however non-custodials were problematic.

Problem

- Non custodials were problematic because
 - Filing a petition and court involvement including review were still required
 - For all practical purposes, and from a federal standpoint, the child was in foster care
 - Statutory language “permitted” non-custodials, which localities interpreted to mean they did not have to offer this option

Problem

- Issue of custody relinquishment came to the attention of the General Assembly
- Posed question to the Attorney General regarding whether or not CSA should be responsible for providing mental health services to children

Answer

- Opinion rendered in December 2006 which strongly stated that no parent in the Commonwealth of Virginia should ever have to relinquish custody to obtain mental health treatment for a child

<http://www.oag.state.va.us/Opinions%20and%20Legal%20Resources/OPINIONS/2006opns/05-095-Fralin.pdf>

Practice Issues

- How could the requirements of the AG's opinion be put into practice?
- Interagency Guidelines were developed based on the AG's opinion under the direction of the State Executive Council, the policy and oversight body for CSA.

Problem Solved

- The *Interagency Guidelines for the Provision of Foster Care Services to Specific Children in Need of Services* including the:
 - CHINS Eligibility Checklist; and the
 - CSA Parental Agreement

created the mechanism to solve the problem.

Why CHINS?

- Why was a determination of CHINS so important?
- How did the CHINS determination help resolve the custody relinquishment issue?

Why CHINS?



Foster Care Services

Code of Virginia §63.2-905...Foster care services.

“Foster care services are the provision of a full range of casework, treatment and community services, including but not limited to independent living services, for a planned period of time to a child who is abused or neglected as defined in § [63.2-100](#) or in need of services as defined in § [16.1-228](#) and his family when the child (i) has been identified as needing services to prevent or eliminate the need for foster care placement, (ii) has been placed through an agreement between the local board or the public agency designated by the community policy and management team and the parents or guardians where legal custody remains with the parents or guardians, or (iii) has been committed or entrusted to a local board or licensed child placing agency.”

Foster Care Services

- The Code of Virginia does not have a definition of “foster care”, rather defines “foster care services.”
- Code defines “foster care services” as “the provision of a full range of casework, treatment and community services...” (§63.2-905)

Foster Care Services

- The Code (§63.2-905) provides for three types of “foster care services.”
 - Foster care prevention (to prevent or eliminate the need for foster care placement)
 - Agreement between parent and the local board or agency designated by the Community Policy and Management Team (CPMT) and the parent retains legal custody
 - Commitment or entrustment to LDSS or a licensed child placing agency (includes custody)

Foster Care Services

- These three types of services:
 - are separate and distinct categories; and
 - do not overlap; an agreement between a parent and agency where parent retains custody is not foster care prevention.

3

Two Categories

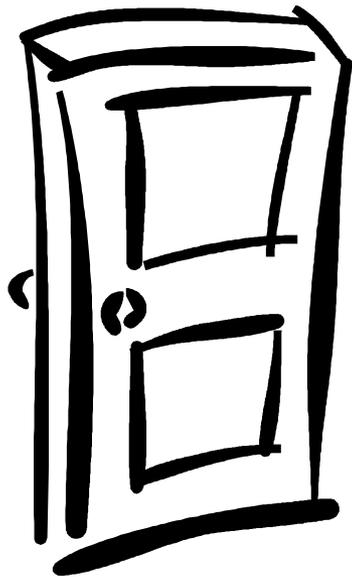
Abuse/Neglect

- Eligible for “foster care services” including prevention of foster care placement
- No need to use CHINS checklist to determine eligibility
- No standard checklist to determine eligibility for this population

Child in Need of Services

- Eligible for “foster care services”, including prevention of foster care placement
- Court determines or FAPT uses CHINS Checklist to determine eligibility as CHINS

Once in the Eligibility Door...



- Child is eligible for all three types of “foster care services”
 - Foster care prevention
 - Agreement between parent/guardian and the local board or an agency designated by the CPMT where the parent retains custody
 - Custody or entrustment to LDSS or an LCPA

“Foster Care Services” = CSA

- Children who are eligible for “foster care services” are eligible for CSA. (§2.2-5212)
- Children who are eligible for “foster care services” as defined in §63.2-905 are “mandated” for CSA, meaning “sum-sufficient” funding for services must be appropriated by state and local governments. (§2.2-5211)

Only CHINS

- The “Interagency Guidelines” do **not** affect the provision of services to children who are receiving foster care services because of abuse or neglect.
 - The CHINS Eligibility Checklist is not used for these children.
 - These children are receiving foster care services, including prevention and placement, because of abuse and/or neglect, not because of their mental health needs.

Guidelines

- Guidelines Documents (found in Resource Library on www.csa.virginia.gov)
 - Interagency Guidelines for the Provision of Foster Care Services to Specific Children in Need of Services
 - CHINS Eligibility Checklist
 - CSA Parental Agreement
 - VDSS Non-Custodial Agreement (On FUSION)

CHINS Checklist

- Provides an alternative to Court determination of CHINS
- If court determines child to be CHINS, criterion #1 is met.
- FAPT may determine that a child is "in need of services" using the Eligibility Checklist for documentation.
- All four criteria must be met ("does" - "is").

CHINS Checklist

- Checklist is completed by FAPT; child meets all four criteria.
- Child is eligible for either:
 - *Services in the community (prevention of foster care)*
 - CSA Parental Agreement is NOT needed.
 - OR
 - *Services outside of the home in a treatment setting such as residential, group home, or treatment foster care*
 - CSA Parental Agreement is needed.

Age 14 Provision?

- The definition of a “child in need of services” reads
 - ... “(i) a child whose behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of the child or (ii) **a child under the age of 14** whose behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of another person;...”
COV §16.1-228 (*emphasis added*)

Why is there a stipulation about the age of the youth if the threat is to another person? What does that mean?

Age 14 Provision

- What about a sixteen year old who physically assaults and threatens to continue to assault his grandparents with whom he lives?
- Could he meet the CHINS criteria?
- YES

Case Management

- Who will case-manage a child in need of services?
- Agencies at FAPT/CPMT are:
 - Department of Social Services
 - Local school division
 - Court Services Unit
 - Community Services Board
 - Local CSA office

Case management decision is based on child's best interests

Two options

- The Code of Virginia defines foster care services to include two options for placement when a parent retains legal custody:

COV §63.2-905... (ii) has been placed through an agreement between the local board or the public agency designated by the community policy and management team and the parents or guardians where legal custody remains with the parents or guardians... (emphasis added)

- DSS Non-Custodial Foster Care Agreement
- CSA Parental Agreement

What about LDSS?

- LDSS may not case manage CSA Parental Agreements.
- Comparable agreement is the non-custodial.
- LDSS case manages, child placed outside of home is considered in foster care. Federal laws and benefits apply.
- Child does not have to be in legal custody of LDSS to be "in" foster care.

Differences

DSS Non-Custodial

- DSS is case manager
- Child is in foster care placement-all federal and state foster care requirements must be met
- Court involvement required
- Eligibility for federal benefits (Medicaid, IV-E, etc.) must be determined

CSA Parental Agreement

- Agency other than LDSS is case manager
- Child is receiving a "foster care service" and is not in foster care placement
- Court involvement is not required
- Child is not eligible for IV-E. May be eligible for Medicaid based on parents' income.

CSA Parental Agreement

- CSA Parental Agreement is a contract between the parents/guardians and the agency designated by the CPMT. The CPMT has fiscal responsibility.
- Terms include the rights and responsibilities of the parent/guardian, what is expected of the agency, financial terms and length of agreement



CSA Parental Agreement

- Parties must agree that out of home placement is:
 - In the child's best interests,
 - Most appropriate and least restrictive setting to meet child's needs; and
 - Mutually agreed upon by the FAPT and the parents/legal guardians.

CSA Parental Agreements are voluntary agreements.

CSA Parental Agreements

- Only used for short-term out of home placements for treatment purposes
- May not be used for other types of placements such as respite
- Placements may be in:
 - Residential facilities (PRTFs)
 - Group homes
 - Treatment Foster Care (use cautiously)

CSA Parental Agreement

- CSA Parental Agreement
 - Parent retains legal custody.
 - Voluntary agreement! Focus is on treatment of child, not parent's ability to care for or provide a safe home for child.
 - Parent/guardian is actively involved in all phases of assessment, decision-making, service delivery and review.
 - Goal is always to return home.
 - Parent places child, not agency. Parent may remove at any time, per the terms of the individual agreement.
 - Residence of parent/guardian matters.
 - Determine fiscal responsibility of all parties.

CSA Parental Agreement

- Parent changes residence to another locality-what happens?
- Parent moves out of state-what happens?



Length of Stay

- Length of Stay
 - Short- term! Set target date. If child is still in need of treatment on that date, review plan.
 - Placement may not last indefinitely.
 - CSA requires utilization review.

Inappropriate Use

- CSA Parental Agreements are not appropriate if child and family are receiving services because of abuse and/or neglect.
 - Voluntary
 - Parent retains legal custody
 - No court involvement
 - May not be used as an alternative to foster care placement when abuse/neglect is present
- CSA Parental Agreements are not a substitute for foster care placement.
 - Focus is treatment, not protection or permanency
 - Child does not have same federal and state protections as a child in foster care

Role of the Court

- CSA Parental Agreements were created to provide an alternative to court involvement for parents who sought a placement for mental health treatment for a child.
- There is no statutory requirement for a “child in need of services” as determined by the FAPT to be involved with the court.
- CSA Parental Agreements do not include or address the role of the court.

Role of the Court

- But, a court may:
 - Determine a child to be CHINS
 - Exercise the dispositional alternative of ordering a placement agreement between LDSS or agency designated by the CPMT where the parent retains legal custody.
 - Order a non-custodial foster care agreement.

Use of the **voluntary** CSA Parental Agreement is not consistent with **court-order** of treatment.

Court Involvement

- Because it was not developed for this purpose, the CSA Parental Agreement template may not be a good fit for situations where the court orders a placement through an agreement between an agency designated by the CPMT and the parent, where the parent retains legal custody.



Problems

- Problems arise when CSA Parental Agreements are not used appropriately:
 - Court is involved
 - Child is in need of permanency
 - No target date set for termination
 - No agreement on what constitutes successful completion of treatment
 - Used for child not in intended population (i.e., behavioral/emotional needs)
 - Parent moves to another locality or state

