

CHINS & CSA Parental Agreements



**CSA CONFERENCE
HOTEL ROANOKE
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**Office of
Comprehensive
Services**
Empowering communities to serve youth

Workshop Outline



- Origin of the CHINS Checklist and CSA Parental Agreements (Why do we have them? What is their purpose?)
- Target Population
- How does CHINS=Foster Care Services=CSA?
- Eligibility Checklist
- CSA Parental Agreements
 - Role of Parent/Guardian
 - Practice Issues

Why the Guidelines?



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

resulted from a 2006 Attorney General's opinion regarding custody relinquishment.

Custody Relinquishment



- What is custody relinquishment?
- Some parents objected as they should be able to obtain mental health treatment for their children just as they were able to obtain physical health treatment for them.

Earlier Effort to Resolve



- Earlier attempt to resolve the problem was 1997 Code of Virginia revision to allow for “non-custodial” agreements where:
 - Parent retained legal custody; and child was
 - Child placed out-of-home for mental health treatment.

Earlier Effort to Resolve



- Problems Remained as “Non-Custodials”
 - ✦ Required involvement of :
 - local Department of Social Services (LDSS); and
 - Court

Earlier Effort to Resolve



- And....
 - At that time, some localities did not enter into non-custodials and still required parents to relinquish custody for children to receive mental health services.

Attorney General's Opinion



- 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>

Operationalizing the Opinion



- 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.

Interagency Guidelines



- The Interagency Guidelines created a mechanism to enable a child to be determined “in need of services” (CHINS) by the Family Assessment and Planning Team (FAPT) without Court or LDSS case management.
- Prior to the AG’s Opinion, the interpretation of the COV (§16.1-228) was that only the Court could make a determination that a child was a “CHINS”.

Why?



- Why was it important to have a child determined to be “in need of services”?
- If a child is determined to be “in need of services”, he or she may be eligible for CSA-funded “mandated” foster care services.
- Now either the Court or the Family Assessment and Planning Team (FAPT) could determine a child to be CHINS.

“Foster Care”-what does it mean?



- Federal definition of “foster care”
 - 24 hour substitute care for children placed away from parent or guardian for whom the State agency (meaning the State Child Welfare Agency) has placement and care responsibility (*45 C.F.R. §1355.20*)
 - Does not require that the child be in the legal custody of the State agency

Statutory Definition of “Foster Care Services” in Virginia



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 also include the provision and restoration of independent living services to a person who is over the age of 18 years but who has not yet reached the age of 21 years, in accordance with § [63.2-905.1](#).”

Foster Care Services in Virginia



- 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...” (COV §63.2-905).
- Foster care services are “sum-sufficient” or mandated (COV §2.2-5211).



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/guardian and the local board or agency designated by the Community Policy and Management Team (CPMT) and the parent/guardian 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.

Foster Care Services



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- Eligibility for CSA

- Code of Virginia (§63.2-905) states there are two populations of children that are eligible for CSA foster care services:
 - ✦ Children who meet the statutory definitions of:
 - Abuse/neglect in COV §63.2-100 or
 - Child in need of services (CHINS) as defined in COV §16.2-228

Two Eligible Populations



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

CHINS

- 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

To repeat:



- Eligibility for CSA

- The “Interagency Guidelines” do NOT affect the provision of services to children who are receiving foster care services because of abuse or neglect.
- The Interagency Guidelines, CHINS Eligibility Checklist and CSA Parental Agreement documents refer **ONLY** to the second population of children (CHINS).

Not a “Foster Care Prevention” Checklist



- Consequently, the CHINS Eligibility Checklist is NOT a “foster care prevention” checklist.



Foster Care Services



- Guidelines Documents
 - Interagency Guidelines for the Provision of Foster Care Services to Specific Children in Need of Services
 - ✦ Attachment A-CHINS Eligibility Checklist
 - ✦ Attachment B-CSA Parental Agreement template

VDSS Non-Custodial Foster Care Agreement

Interagency Guidelines



- Comprehensive document which outlines policy regarding the use of the CHINS eligibility checklist and the CSA parental agreement:
 - Who is **not** eligible
 - Who **may** be eligible
 - Criteria for FAPT decision
 - Type of services
 - Role of parent/guardian
 - Case management
 - Service planning and review

Who is not eligible?



- Children who are in “foster care” through custody, commitment or entrustment to a LDSS or licensed child placing agency by the court.
- Children who are abused or neglected, as defined in §63.2-100, and receive foster care services, including:
 - foster care prevention services
 - services to children who have been committed or entrusted to the LDSS or licensed child placing agency by the court (*including children placed in the care and custody of LDSS through a “relief of care and custody” petition granted by the court*);
 - *Placement through a noncustodial agreement between the LDSS and the parent or legal guardian who retains legal custody*
- Children in need of supervision, delinquents, or truants referred by the court.
- Children who are eligible for special education services through CSA (§2.2-5211C subdivisions B1 and B2.)
- Children who are eligible for non-mandated services through CSA, as identified in the CSA target populations (§2.2-5211C subdivisions B4 and B5). *These children are:*
 - “Placed by a juvenile and domestic relations district court, in accordance with the provisions of §16.1-286, in a private or locally operated public facility or nonresidential program, or in a community or facility-based treatment program in accordance with the provisions of subsections B or C of §16.1-284.1; and
 - “Committed to the Department of Juvenile Justice and placed by it in a private home or in a public or private facility in accordance with §66-14.”

“Children in need of services,” children with mental health needs, or children who need residential care who do not otherwise meet the eligibility guidelines in this document.

Who may be eligible?



- Children who meet the statutory requirements for CSA found in COV §2.2-5212 regarding emotional/behavioral disorders; and
- Who meet the statutory definition of CHINS; and
- Level of need is severe enough that intervention is needed to either prevent out of home placement or maintain home placement

- Remember target population

CHINS Eligibility 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”).

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.

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...

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

DSS and Non-Custodial Foster Care



- 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.

Similarities (VDSS Non-Custodial and CSA Parental Agreement)



- Parents retain legal custody.
- Child is placed outside of the home for the purpose of treatment of emotional/behavioral issues.
- Placement is in a treatment setting.

Some 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.

Role of Parent/Guardian



- 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?



Potential Problems



- 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

Potential Problems



- CSA Parental Agreements are not appropriate if “permanency” is an issue for the child and family.
- Child placed in foster care has the protection of federal and state law which require movement towards permanent placement, e.g., return home, adoption, relative placement. Child does not have this protection with CSA parental agreements and may “languish” in placement.

Potential Problems



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

Age of Youth



- Child in need of services means

... “(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?

Age of Youth



- Children who are placed through CSA Parental Agreements may continue to receive services past their 18th birthday to complete treatment.
- If youth attains age 18 while placed, consent of youth to placement must be obtained.
- CSA Parental Agreements may not be entered into with youth age 18 or older.

Court Involvement



- 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.

Court Involvement



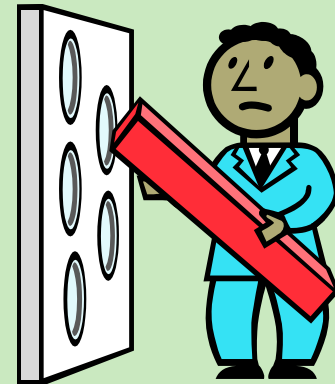
- Court may determine a child to be a “child in need of services.”
- Court has the dispositional alternative of ordering a placement through an agreement between LDSS or agency designated by the CPMT where parent retains legal custody (COV §16.1-278.4).

Court must be involved with non-custodial foster care agreements.

Court Involvement



- Use of *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.



Practice Issues



- Problems with CSA parental agreements usually arise when agreement has been used inappropriately, such as:
 - Court is involved
 - Child is in need of permanency
 - No target date set for termination of agreement
 - No agreement on what constitutes successful completion of treatment
 - Parent moves to another locality or state

For more information:



- CSA Parental Agreements, contact the Office of Comprehensive Services or go to the Resource Library page at www.csa.virginia.gov
- Attorney General Opinion on Custody Relinquishment [05-095-Fralin.pdf](#)
- VDSS Non-Custodial Foster Care Agreements, contact your Regional VDSS Permanency Consultant.