

Interagency Guidelines, CHINS Eligibility Checklist & CSA Parental Agreements

Strengthening the Core to Improve Flexibility
Comprehensive Services Act (CSA) Conference
Hotel Roanoke-June 2012

CSA Parental Agreements/VDSS Non-Custodial Foster Care Agreements

- CSA Parental Agreements
- VDSS Non-Custodial Foster Care Agreements
- Similarities and Differences
- Scenarios

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
 - 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)
 - 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 involvement.
- 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 is therefore 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 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...” (§63.2-905)
- Foster care services are “sum-sufficient” or mandated (§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 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
 - Do not overlap; an agreement between a parent and agency where parent retains custody is not foster care prevention



Foster Care Services

- 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 §63.2-100
 - Child in need of services (CHINS) as defined in §16.2-228

Two Eligible Populations

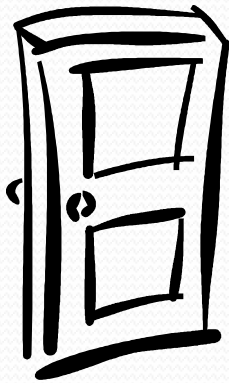
Abuse/Neglect

- 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 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 ONLY refer 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
 - CHINS Eligibility Checklist
 - CSA Parental Agreement

VDSS Non-Custodial Foster Care Agreement

CHINS Eligibility Checklist

- Used by FAPT to determine a child's eligibility to receive CSA services as a CHINS:
 - foster care prevention services (services provided in the home)
 - through a parental agreement (treatment services provided in an out of home setting)

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”).

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 Agreement

- Parent retains legal custody
- Agency, **other than LDSS**, designated by the CPMT, serves as case manager
- Parent “places” child, not agency placement
- Case management decision is based on child’s best interests
- Not appropriate if child is receiving services because of abuse/neglect
- No need for court involvement

CSA Parental Agreement

- Plan must be to return child home
- Only needed for out of home placements, not services in the community
- Out of home placements include residential facilities, group homes and treatment foster homes

CSA Parental Agreement

- Parent must agree to involvement with treatment and visitation with child
- Parent changes residence to another locality-what happens?
- Parent moves out of state-what happens?

For more information:

- CSA Parental Agreements, contact the Office of Comprehensive Services or go to 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.