

# Interagency Guidelines, CHINS Eligibility Checklist & CSA Parental Agreements

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# Why the Guidelines?

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

were all developed as a result of a 2006 Attorney General's opinion regarding custody relinquishment.

# Why the Guidelines?

- What is **custody relinquishment**?
- Parents objected; why should they have to go to court or give up custody just to be mental health treatment for their child?

# Why the Guidelines?

The Interagency Guidelines created a mechanism to enable a child to be determined “in need of services” by the Family Assessment and Planning Team (FAPT) and therefore eligible for CSA-funded services without Court or local Department of Social Services involvement (LDSS).

# Earlier effort to resolve

- 1997-General Assembly passed bill which permitted local governments to enter into agreements with parents and “an agency designated by the CPMT”
  - parent retained legal custody
  - Child placed outside of the home for mental health treatment
- Became known as “non-custodials”

# Non-custodials

- Problems remained as non-custodials required
    - LDSS involvement
    - Court involvement
- AND
- Local governments could opt to not provide non-custodials

# Opinion of the Attorney General

- 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>

# Implementation

- 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.



# 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

- 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 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 and 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)

# Foster Care Services

- Eligibility for CSA
  - Code states there are two populations of children that are eligible for 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 §16.1-228

# Foster Care Services

- 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 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.

# Foster Care Services

- Guidelines Documents (found in Resource Library on [www.csa.virginia.gov](http://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 SPARK)

# CHINS Eligibility Checklist

- Used by FAPT to determine a child's eligibility to receive CSA services as a CHINS, either:
  - foster care prevention services provided in the home
    - No parental agreement needed
  - services provided in a treatment (out of home setting)
    - Parental agreement (or non-custodial) is needed



# CHINS Eligibility Checklist

- All four criteria must be met:
  - Includes requirement that child must meet the statutory definition of a child in need of services found in §16.1-228, as follows:

*“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.”*

# Case Management

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

Case management decision is based on best interests of the child and family, not what is best for agencies.

# CSA Parental Agreement

- The 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 determined by the parents/guardians and the FAPT/CPMT

# 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?

# DSS Non-Custodial Foster Care Agreement

- Used when **LDSS serves as case manager** for CHINS child needing treatment
- Should **not** be used for children needing services because of abuse/neglect
- Child is considered **in “foster care”** by Federal definition



# DSS Non-Custodial FC Agreement

- **Federal requirements** such as permanency planning reviews and court involvement apply
- **Federal benefits** such as determination of eligibility for Medicaid and Title IV-E apply
- Referral to Division of Child Support Enforcement must be made

# Potential Problems: Abuse/Neglect

- CSA Parental Agreements are **NOT appropriate** if the child and family are receiving services because of abuse/neglect. Why?
  - Voluntary
  - Parent retains legal custody
  - No court involvement
  - May not be used as alternative to foster care placement for A/N (focus is treatment, not protection or permanency)
  - Lack federal and state child welfare protections

# Potential Problems: Age of Youth

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

# Potential Problems: LOS

- 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.

# Potential Problems: Court

- CSA Parental Agreements were created to provide an **alternative** to court involvement for parents who sought mental health treatment for their child.
- CSA Parental Agreements **do not** include or address the role of the court.
- There is no requirement for a FAPT-determined CHINS to be involved with the court.

# Potential Problems: 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.

# Practice Issues (summary)

- 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

# Questions?





# DSS Non-Custodial Agreement

- Contact the VDSS Permanency Consultant in your Region
  - Lisa Tully, Central Region 804-662-9791
  - Tammy Francisco, Southwest Region 276-676-5487
  - Dawn Caldwell, Piedmont (Western) Region 540-204-9638
  - Tammy Curl, Northern Region 540-347-6334
  - Jane Joyner, Eastern Region 757-491-3986

# CHINS and CSA Parental Agreements

Contact the Office of Comprehensive Services:

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