

Child in Need of Services (CHINS) and CSA Parental Agreements



**NEW COORDINATOR ACADEMY
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Why do we have CSA Parental Agreements?



- The State Executive Council policy (“*Interagency Guidelines regarding the Provision of Foster Care Services to Specific Children in Need of Services*”) governing the use of the CHINS Checklist and CSA Parental Agreement template were created as a way to solve a problem which reached its peak in 2006.
- **Problem:** How do we help parents of children with severe emotional/behavioral problems access residential treatment?
- Children with emotional/behavioral needs were considered either not eligible for CSA or non-mandated...unless...

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 (CHINS); and
 - place the child in foster care with the local Department of Social Services.

These actions 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



- 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-Question



- Issue of custody relinquishment came to the attention of the General Assembly
- Legislator 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>

AG Opinion



- The previous interpretation of Code was that only a court could make the determination of a child in need of services. (COV §16.1-228)
- Attorney General disagreed and said that was too narrow an interpretation; that the court could make the determination, but it did not exclude other entities from making this determination.

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, and adopted as policy in December 2007. A statutory change effective July 1, 2008 removed the requirement for court review.

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 template

provided guidance on the purpose, the target population, case management, service planning and other aspects of the new process.

Why CHINS?



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

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.”

Emphasis added

“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)

Foster Care Services



- The Code of Virginia does not have a definition of “foster care”, rather it 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)

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

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.



Foster Care Prevention



- Community-based services
- Provided to families whose children are at risk of out of home placement because of abuse, neglect or CHINS-includes “risk of”
- Incorporates services provided to alternative caregivers per foster care regulations



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

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, (or dependency issues) 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 SPARK)

How it works...



- Family comes to Family Assessment and Planning Team (FAPT) meeting with a child who has significant emotional/behavioral problems at school and home; Community Services Board (CSB) is already involved
- No need for court involvement-no charges
- FAPT reviews the criteria on the CHINS checklist and reaches a decision regarding the child's level of need.

CHINS Checklist



- 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.”

Age 14 Provision



- “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 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?

CHINS Checklist



- Provides an alternative to Court determination of CHINS
- If court determines child to be CHINS, criterion #1 is met.
- All four criteria must be met.
- Issue with last and later change in statutory terminology

Criterion #2



The child has emotional and/or behavior problems where either:

the child's problems:

- have persisted over a significant period of time or, though only in evidence for a short period of time, are of such a critical nature that intervention is warranted; and
- are significantly disabling and are present in several community settings, such as at home, in school or with peers; and
- require services or resources that are unavailable or inaccessible, or that are beyond the normal agency services or routine collaborative processes across agencies, or require coordinated interventions by at least two agencies.”

• OR

the child:

- is currently in, or at imminent risk of entering, purchased residential care; and
- requires services or resources that are beyond normal agency services or routine collaborative processes across agencies; and
- requires coordinated services by at least two agencies.”

Criterion #3



- ***The child requires services:***

- to address and resolve the immediate crises that seriously threaten the well being and physical safety of the child or another person; and
- to preserve and/or strengthen the family while ensuring the safety of the child and other persons; and
- the child has been identified by the Team as needing:

- ✦ services to prevent or eliminate the need for foster care placement. Absent these prevention services, foster care is the planned arrangement for the child.

- or

- ✦ placement outside of the home through an agreement between the public agency designated by the CPMT and the parents or legal guardians who retain legal custody. A discharge plan for the child to return home shall be included.

- Foster care placement is defined as “placement of a child through (i) an agreement between the parents or guardians and the local board or the public agency designated by the community policy and management team where legal custody remains with the parents or guardians or (ii) an entrustment or commitment of the child to the local board of licensed child-placing agency.” (§ 63.2-100) (2007)

Criterion #4



- **The goal of the family is:**

to maintain the child at home (for foster care prevention services)

OR

return the child home as soon as appropriate (for parental agreements).

CHINS Checklist



- When the checklist is completed by FAPT and the 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

What about LDSS (“local board”)?



- 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.

CSA Parental Agreement and Non-Custodials-Similarities



- 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.

Differences



DSS Non-Custodial

- LDSS 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”
- Court involvement is not required
- Child is not eligible for IV-E. May be eligible for Medicaid based on parents’ income or after 30 days in a Medicaid Level C facility, based on the child’s 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 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.

Age Limits?



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

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.

CSA Parental Agreement



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



When NOT to 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

When not to use...



- 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.

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

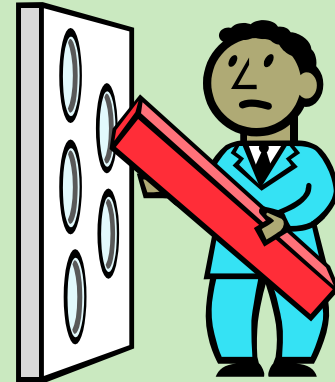


- But, a court may:
 - Determine a child to be CHINS
 - Exercise the dispositional alternative of ordering a placement agreement between LDSS or agency designated by the CPMT where the parent retains legal custody
 - Order a non-custodial foster care agreement.

Role of the Court



- 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.



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

Questions?



- All documents may be found at www.csa.virginia.gov in the Resource Library
- User Guide also at www.csa.virginia.gov
- For Non-Custodials, contact your regional Permanency Specialist with VDSS
- Carol Wilson at carol.wilson@csa.virginia.gov

Pretend you're here...

