

Custody Relinquishment

Presentation to the Joint Subcommittee
Studying the Comprehensive Services for
At-Risk Youth & Families

Kim McGaughey

*Executive Director
Office of Comprehensive Services for
At-Risk Youth & Families*

June 19, 2007

Custody Relinquishment

- CSA State Executive Council Workgroup (2004-2005)
- Attorney General's opinion (December 2006)
- Senate Bill 1332 passed with reenactment clause (2007 Session)
 - ◆ Budget language: OCS estimate number of additional children; type and costs of services; and statutory, policy or procedural changes to ensure services delivered in least restrictive and most cost effective manner
- JLARC report on custody relinquishment (March 2007)
 - ◆ Some localities interpreting CSA law too narrowly
 - ◆ State foster care prevention policy lacked legal basis and contributes to custody relinquishment
- Secretary Tavenner directed immediate action to comply with law
 - ◆ OCS, DSS & DMHMRSAS issued memo on March 27
 - ◆ OCS convened Stakeholders Group
 - ◆ Memo clarifying law & proposed interagency guidelines distributed for 60 days public comment on May 18
 - ◆ State Executive Council takes action August 8
 - ◆ Guidelines effective August 15

Custody Relinquishment

- Families do not have to relinquish custody for eligible children to access necessary services through mandated CSA funds.
- State law mandates the provision of foster care services through the CSA state pool of funds (*§2.2-5211C subdivision B3*)
 - ◆ for two types of children and their families (*§63.2-905*)
 - ◆ “abused or neglected”
 - ◆ “children in need of services”
 - ◆ under three distinct situations (*§63.2-905*), when the children
 - ◆ need services to prevent/eliminate need for foster care placements;
 - ◆ are placed through an agreement between local public agency designated by the CPMT and the parents who retain legal custody;
 - ◆ are committed or entrusted by the court to local DSS or licensed child placing agency.
- Foster care services are defined as “a full range of casework, treatment and community services for a planned period of time”(*§63.2-905*) based on the strengths and needs of the child and family.

Custody Relinquishment

- Virginia statute defines "child in need of services" (§16.1-228)
 - ◆ “(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.....
 - ◆ However, to find that a child falls within these provisions,
 - ◆ (i) the conduct complained of must present a clear and substantial danger to the child's life or health or to the life or health of another person,
 - ◆ (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received, and
 - ◆ (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or his family.”

- Changes apply only to “children in need of services” when:
 - ◆ need services to prevent foster care placement or
 - ◆ are placed out of home through agreement between the local public agency designated by the CPMT & parents who retain legal custody

Custody Relinquishment

- No changes in policy or practice for children:
 - ◆ CHINS or who have mental health needs and can be served through normal agency services and routine collaboration
 - ◆ children in need of supervision, delinquents referred by the court
 - ◆ CHINS committed or entrusted in “foster care” by the court
 - ◆ abused or neglected
 - ◆ eligible for special education services through CSA
 - ◆ eligible for nonmandated services through CSA

Custody Relinquishment

- Changes based on law for eligible children:
 - ◆ Children shall receive complement of services based on needs
 - ◆ Duration of foster care prevention services shall be based on need, not limited to 6 months with regional approvals for extensions
 - ◆ “Children in need of services” are mandated
 - ◆ Parental agreements are mandatory if child placed out of the home
 - ◆ Child is not “in foster care” if public agency other than local DSS provides care coordination
 - ◆ Service plan must be filed with court; court review every 6 months
 - ◆ Do not need to meet other federal & state foster care requirements
 - ◆ Title IV-E funds cannot be used

- Issues being debated
 - ◆ Determination of “child in need of services”
 - ◆ Eligibility criteria
 - ◆ Court reviews
 - ◆ Final authority for placement decisions
 - ◆ Funding for intensive care coordination
 - ◆ Number of children and fiscal impact

Custody Relinquishment

- Stakeholder workgroups
 - ◆ Intensive care coordination
 - ◆ Work with Executive Secretary of the Supreme Court to make court reviews more relevant
 - ◆ Standard template for parental agreements
 - ◆ Eligibility criteria
 - ◆ Fiscal impact
- Recommend any legislative changes
- Educate & train on final guidelines

Custody Relinquishment

Fiscal impact being tracked; reviewing JLARC estimates

- Foster care prevention services
 - ◆ JLARC estimate
 - ◆ 20% localities reported not using for “children in need of services”
 - ◆ 225 children at \$1.5 million annually (*\$6,690 per child in FY05*)
 - *\$0.9 million state; \$0.6 million local*
 - ◆ longer than 6 months without regional approval (*estimated small impact*)
- Parental agreements for residential placements (*JLARC estimate*)
 - ◆ JLARC estimate
 - ◆ 56% localities reported not accepting or limiting agreements
 - ◆ 615 - 753 children at \$17.3 - \$21.2 million annually (*\$28,150 per child*)
 - *\$10.9 - \$13.4 million state*
 - *\$6.4 - \$7.8 million local*
- Family Assessment & Planning Team determining “child in need of services” is eligible for CSA services and funding, as opposed to court making determination of CHINS
- Intensive care coordination with some children to coordinate effective services in home whenever appropriate