

**Virginia Commission on Youth**  
**Study of Barriers to Kinship Care in Virginia**  
**Advisory Group**

Speakers Conference Room  
General Assembly Building  
November 3, 2010  
10:00 a.m.

**MINUTES**

**Members Attending:**

Delegate Christopher Peace, Janet Areson, Amber Allen, Lisa Banks, Cynthia Cave, Betty Wade Coyle, Kathy Dial, Lelia Baum Hopper, Regina Hurt, Christine Marra, Charlotte McNulty, Mary Dunne Stewart, Cate Newbanks for Sarah Smalls, Sherri Walker-Thacker, Adalay Wilson, Betty Jo Zarris

**Members Absent:**

Senator Yvonne Miller, Delegate Robert Brink, Delegate Mark Cole, Senator Edward Houck, Joy Myers, Patty Bailey, Pamela Fisher, Molly Huffstetler, Dean Lynch, Ashaki McNeil, Ruth McCall-Miller, Ellen Nau, Alberta Person

**Participating Electronically:**

Delegate Mamyé BaCote, Delegate Anne Crockett-Stark, Michelle Cowling

**Guests:**

Denise Gallop, Jessica McClary, Courtney Stewart, D. Patrick Lacy, Jr.

**Staff Attending:**

Amy M. Atkinson, Leah Hamaker

**Welcome and Introductions**

**Study Overview**

*Amy M. Atkinson, Executive Director*

Ms. Atkinson welcomed the Advisory Group and asked the members and guests introduce themselves. Ms. Atkinson reminded the Advisory Group that, at the October meeting, the Advisory Group discussed the challenges that informal kinship caregivers may face enrolling their children in school.

**Kinship Care and Enrollment in School**

*Courtney Stewart, International and ESOL Coordinator  
Albemarle County Public Schools, Charlottesville*

Ms. Atkinson asked Cate Newbanks with FACES of Virginia Families to share her experience with enrolling her grandchildren in school. Ms. Newbanks explained that she was caring for her three young grandchildren at the request of her son, who was going through a difficult divorce. Her son was a resident of Powhatan County, whereas Ms. Newbanks resided in Hanover County. Ms. Newbanks attempted to enroll her grandchildren in Hanover County Schools but was unable to do so without obtaining custody of the children, which she and her son never intended. Ms. Newbanks stated that public school officials in many school divisions assume that children must live with their biological parents or a legal guardian in order to register for

school. She stated that perception was in conflict with two separate Attorney General's Opinions. Both of these Opinions stated that a school division may not refuse to provide a free education to a bona fide resident of the school division based solely on the categories in § 22.1-3 of the *Code*. The Opinions concluded that these statutory categories were factors for school divisions to consider in determining the residence of a child. However, situations in addition to those listed in the *Code* may also entitle persons residing in a locality to free admission to public schools in the locality.

Ms. Newbanks noted that many school divisions do not recognize the Attorney General's Opinions and, when a child is residing with a family member, school divisions require that the child be enrolled by their custodial parent. Ms. Atkinson asked Ms. Stewart to discuss how Albemarle County schools were addressing this issue.

Ms. Stewart shared with the Advisory Group that, in previous school years, she was informing informal caregivers that they must file for and be awarded custody of the child in order to enroll them in school. She indicated that documents regarding the child's legal status were not required pursuant to a court case. To address this issue, JustChildren helped Albemarle County develop documents with an interview protocol to assist in the school enrollment of these children. Currently, Albemarle uses a sworn affidavit to facilitate the enrollment of students who are living within the Albemarle County Public School Division boundaries but who are not residing with their parents.

Ms. Stewart stated that school enrollment could be problematic particularly when the parents had a "month to month" lease. If there was a question about residency, it was critical to work with the local department of social services. Shared housing could also pose a problem for purposes of school enrollment. Discussion ensued about making a residency determination based upon where the child was currently residing and reviewing the situation within six months.

The Advisory Group discussed the need for training for school officials. Foster care prevention efforts were causing barriers to school enrollment. While foster care prevention was beneficial to the child, it could also interrupt school attendance for months at a time due to variation and inconsistencies of school enrollment practices between school divisions. The Virginia Poverty Law Center and JustChildren had conducted a conference call to train on this topic. Barriers to school enrollment can be detrimental to permanency because the child may experience additional placement changes for purposes of school enrollment.

A representative from the Virginia School Board Association noted that the Attorney General's Opinions on this topic are uniform. In the *Code*, school-aged children residing with caregivers are bona fide residents for purposes of school enrollment. However, children residing with a caregiver solely for school enrollment purposes were not considered bona fide residents.

The Advisory Group discussed issues related to parental rights. If parents relinquish their children to a caregiver without relinquishing custody, then the caregiver cannot make educational decisions about for the children. An example would be establishing an Individualized Education Program (IEP) if the child was receiving special education services. The Family Educational Rights and Privacy Act (FERPA) cannot authorize access to a child's school records via a Power of Attorney. The school must delineate the exact records. Therefore, a problem may arise when the caregiver wants to attend an IEP conference or receive information regarding disciplinary proceedings.

The Advisory Group discussed the use of Power of Attorney for medical issues versus educational matters. Another topic that was discussed was that of joint custody arrangements. Schools were also dealing with custody arrangements which allowed parents to alternate physical custody on a “week by week” basis. The “head on the pillow” rule maintains that where the child sleeps four of the seven nights is where the child legally resides. Again, the primary issue is the bona fide residence of the student.

The Advisory Group noted that unaccompanied youth, married students, and emancipated minors could also be problematic for school divisions. It was also noted that the residency requirement was not an issue for a majority of the schools in the Commonwealth. Another issue discussed was when a student had a medical emergency and parental consent for medical treatment was not obtained. The Advisory Group discussed the issues of obtaining consent when the student is placed in a group home. The Courts may then have to get involved. That is why the involvement of the local department of social services is critical. The Advisory Group noted that the school must receive permission/authorization regarding medical treatment at intake when the child was not residing with their biological parents. It was noted that in custody situations, the Courts determined where the child was to reside and all other issues follow.

The Advisory Group discussed whether staff would recommend to the Commission on Youth the introduction of legislation clarifying that the items outlined in § 22.1-3 are rebuttable presumptions. The Advisory Group indicated that school divisions were not aware of these Attorney General's Opinions. If legislation was pursued, legal guardianship would also need to be addressed in the *Code*. The Advisory Group agreed that a Superintendent's Memorandum outlining the Attorney' General's Opinions would be helpful. Training through the Virginia Association of School Superintendents and the Virginia School Board Association would also be beneficial. The Commission on Youth can adopt the Attorney General's Opinions as persuasive/proclamation or propose legislation by stating that the items outlined in the Opinions are rebuttable presumptions for purposes of residency. The Advisory Group agreed that this discussion be continued in 2011. It was noted that legislation be carefully considered because it could also have an adverse impact upon local school divisions' practices, particularly if the school divisions were adhering to the residency requirements as explained in the Attorney General's Opinions. The Advisory Group noted that, as the local departments of social services divert youth from foster care, other education issues are certain to occur.

### **Working with Kinship Families**

*Denise Gallop, MSW, Administrator, Hampton CSA*

*Jessica McClary, Utilization Review Coordinator*

Jessica McClary and Denise Gallop with the Hampton Office of Comprehensive Services discussed Hampton's model for working with families.

Ms. McClary outlined the methods Hampton was using to accomplish family engagement. *Hampton's Family Finding Philosophy and Practice*. The Family Finding model is utilized by Hampton. The goal of Family Finding is to provide each child and young adult with the life-long connections that only family can provide. The core belief of Family Finding is that every child deserves a family. Ms. McClary stated that loneliness can be devastating and particularly felt by foster children and that fostering meaningful connections to a family help a child develop a sense of belonging. This factor is the single most identified factor contributing to positive outcomes for children and young adults involves meaningful connections and life-long relationships with family.

The six steps of Family Finding are:

1. Discovery – search engines may be used to accomplish this step;
2. Engagement (Blended Family Meeting);
3. Planning (Youth Support Team);
4. Decision Making
5. Evaluation - used by the Family Assessment and Planning Teams (FAPT); and
6. Follow-up on Supports (Lifetime Support Network),

Ms. McClary stated that there were approximately 100-plus relatives for every child. Of these relatives, 97 percent reside in homes with other family members. Search engines, such as Ancestry.com, are very helpful in locating family members. Also, the searches for family were not used purely for finding a place for the child to stay. The searches also encompassed visitation, financial assistance, and holiday get-togethers. The lessons learned from utilizing Family Finding were numerous. Ms. McClary stated that diligent family searches have greatly impacted the work they do for their youth and families. In addition, there is also a sense of urgency for their youth to have permanent connections to their families. The term “Million Dollar Babies” was explained. This is the amount of money expended on a youth receiving services through the foster care system. In Hampton, the foster care numbers have reduced dramatically over the past five years from 250 to 55. This is because there are “front end” services being provided which reduces or eliminates youth having to enter care. In summary, it is possible to respond to a crisis in a child’s life by preserving and expanding information and connections to lead to restoration of self-sufficiency. Families are the most normative setting for raising children.

Ms. Gallop told the Advisory Group that Hampton works hard to promote and execute the following beliefs, which are also espoused by the System of Care model:

1. Keeping children and families together is the best possible use of resources;
2. Partnering with all who can support children and families’ successful outcomes;
3. Beginning with outcomes not process;
4. Affirming that families are the experts about their families;
5. Holding everyone is accountable for positive outcomes for children and their families at home, school and in the community;
6. Promoting child-centered, family-focused and community-based service delivery, which is also set forth in Virginia’s Comprehensive Services Act; and
7. Doing whatever it takes to support the success of children and families.

While kinship care promotes positive family relationships, kinship caregivers and the children in their care are often in need of support services. Hampton uses the Teaching Parent Program. This program was developed to work with birth parents and other family members whose children are at risk of being removed from their families and/or communities. The Teaching Parent Program provides an array of services that will strengthen the family unit and allow children to remain in the community in the least restrictive environment. Services are an 8-10 week specialized training that allows the teaching parent to better understand and work with at-risk children. The training curriculum includes topics to help families, such as mental health, parenting, special education and time management. Children are able to remain with their families and in their community. Hampton also provides other supports such as kinship care Navigation, respite, resource parenting, personal care, and housing assistance.

These services are in line with the mission and funding provided by the Comprehensive Services Act (CSA). Funding categories that could be utilized are foster care prevention funds,

specialized education funds, and non-mandated funds. An outcome from Hampton's efforts is that, effective November 2010, no youth are placed in restrictive living environments such as residential treatment or group homes. Hampton has experienced a 70 percent reduction in foster care population in the last five years. In addition, no youth have returned to foster care during the last 18-months.

Public-private partnerships are critical to Hampton's success. Moreover, it is important that models that are working be shared. With family search requirements, training on diligent family search would be beneficial. Local departments of social services may not be able to afford the cost for a family search engine. There is a cost imposed upon local agencies due to the family finding requirements. The Advisory Group discussed whether there were CSA funds available for family location/family engagement services. It is possible that this can be billed as foster care prevention, but it depends on the needs of the child.

The Family Group Decision Making model was discussed by the Advisory Group members. While this was occurring in Richmond, it was more difficult to operationalize in smaller localities. Rural localities may have difficulty funding diligent family search. The Virginia Department of Social Services is looking into these issues with regional teams and developing strategies address these concerns. Ms. Zarris noted that the Department is also evaluating the feasibility of procuring Accurint® for each local department of social services. Accurint® is a person-finding search tool which helps in the location of family members. The Advisory Group agreed it was important to acknowledge that there was more than one type of rural locality.

Ms. Atkinson referred the members of the Advisory Group to a yellow handout in their packets. This was the synopsis of a conversation that Ms. Atkinson has with a kinship caregiver. Various challenges facing relative caregivers were shared and discussed. These include issues with depleting savings, paying for additional housing/rent, paying for additional food costs associated with caring for two children. In addition, her older grandchild turned 18 and his part-time job was going to be considered in the determination of TANF benefits. Her monthly rent had increased to more than three-fourths of her income.

This grandmother also noted that, while the studies show that children do better when they reside with family, most foster parents receive \$600 to \$1,200 a month for foster children. She only receives \$173 in benefits. She stated that the system needs to be more equitable for relative caregivers who were not participating in the foster care system. She wants to do the right thing for her grandchildren but has also depleted her savings and 401K caring for them.

## **Barriers to Kinship Care Recommendations**

### *Advisory Group Discussion*

The Advisory Group reviewed the draft findings and recommendations and offered suggestions to accept, modify, or delete certain draft recommendations.

### **Finding #1 – Attitudes about kinship care are not always positive.**

#### Draft Recommendations

1. Support the continued implementation of Virginia's Children's Services System Transformation. *The Advisory Group agreed with this Recommendation.*
2. Request the Department of Social Services clarify policies and provide training to ensure kinship care, both formal and informal kinship care, is identified as a goal for permanency. *The Advisory Group agreed with this Recommendation.*
3. Request the Department of Social Services to include formal kinship care as a placement option on the Service Plan. *The Advisory Group requested that this Recommendation be*

*stricken. The Advisory Group discussed the critical role of diverting children from foster care.*

**Finding #2 – Accessing resources is difficult for relatives raising children.**

**Draft Recommendations**

1. Receive information from local departments of social services, the Area Agencies on Aging (AAAs), community services boards (CSBs), and community action agencies on ways to improve dissemination of information to relative caregivers regarding available social service programs and benefits (e.g., TANF, FAMIS, Medicaid, WIC, housing assistance, and the Comprehensive Services Act). *The Advisory Group suggested combining Recommendations #1 and #2 to develop a Kinship Care Navigator. The Department for the Aging's Kinship Care Task Force would be the best group to receive this recommendation, as they have already developed a plan for a Navigator. Ms. Atkinson noted that Commission staff would work on this recommendation and re-submit it to the full Advisory Group. Advisory Group members noted that this could possibly be accomplished when the next Senior Navigator grant was submitted. Court Service Units and Community Service Boards should also be included so they could be informed about these resources.*
2. Receive information from the Departments for the Aging, Social Services and the Area Agencies on Aging (AAAs) on ways to provide information and referrals to relative caregivers. *See #1. The Advisory Group suggested eliminating this as a separate Recommendation and combining it with Recommendation #1.*
3. Request the Department of Social Services continue pursuing cost efficiencies in the operation of Virginia 2-1-1, the statewide information and referral system, and investigate savings of consolidation of existing network resources such as the Grandparents Caring for Grandchildren Guide and Senior Navigator. *The Advisory Group requested that this Recommendation be stricken.*
4. Request the Department of Social Services develop a plan for using Virginia 2-1-1 to serve as a resource tool for juveniles released into the community in assisting them transition back to the community. *The Advisory Group agreed with this Recommendation.*

**Finding #3 – Funding for kinship care is not always perceived as an investment.**

**Draft Recommendations**

1. Request the Department of Social Services move forward with the Custody Assistance program (formerly Subsidized Custody to a Relative program). *The Advisory Group agreed with this Recommendation.*
2. Request the Department of Social Services modify Virginia's existing policies and guidelines to address this issue. *The Advisory Group requested that this Recommendation be stricken.*
3. Request the Department of Social Services create a training program to child service and social service workers to address this issue. *The Advisory Group requested that this Recommendation be stricken.*
4. Request the Department of Social Services develop educational materials comparing the cost of providing kinship care services to the family versus therapeutic foster care, residential treatment or even the cost of incarceration. The benefits and positive outcomes experienced by children who are placed with family members will also be included. *The Advisory Group agreed with this Recommendation, but asked that it be amended to reference formal kinship care and that the Department of Social Services report to the Commission prior to the 2012 General Assembly Session.*

**Finding #4 – There is no data on the number of informal kinship care arrangements in Virginia.**

**Draft Recommendation**

Request the Department of Social Services update the Commission on Youth on the Kinship Care Diversion Project which will help ascertain the number of children diverted from foster care and placed with kinship providers. *The Advisory Group agreed with this Recommendation and requested that the costs and cost-savings also be included in this report.*

**Finding #5 – Barrier crime laws in Virginia which apply to kinship care placements are overly-restrictive.**

**Draft Recommendations**

1. Amend § 63.2-900.1 of the *Code of Virginia* (the Kinship Foster Care section) to allow for specific exceptions to the barrier crime provisions for approval of kinship care placements for misdemeanor offenses if 10 years have elapsed since conviction and for felony drug possession if 20 years have elapsed since conviction. Such exceptions will apply only to kinship care placements and not apply to any crimes involving abuse, neglect, or moral turpitude of a minor. *The Department of Social Services noted that, if this was to be adopted, Virginia would have to obtain a waiver from the U.S. Department of Health and Human Services because this option would create a different standard for children in foster care placements compared to children in formal kinship care placements. The Advisory Group did not strike this recommendation. Staff would convey this information to the Commission on Youth. It was also discussed that the last sentence be amended to include crimes involving moral turpitude in general, not just of a minor.*
2. Request the Virginia Code Commission evaluate Virginia's barrier crime statutes in the *Code of Virginia* and offer recommendations which will make provisions consistent, as well as reduce existing gaps in the statutes. *The Advisory Group agreed with this Recommendation.*
3. Introduce legislation requiring the Department of Social Services, with assistance from the Office of the Attorney General, to annually review and update the listing of barrier crimes impacting the licensure of foster or adoptive parents approved by child-placing agencies and family day homes approved by family day systems. The barrier crime listing will be distributed annually to all local departments of social services. *The Advisory Group requested that this Recommendation be amended to "Request the Department of Social Services, with assistance from the Office of the Attorney General, to annually review and update the listing of barrier crimes" rather than to introduce legislation.*

**Finding # 6 – Kinship caregivers frequently face challenges enrolling the child placed in their care in school.**

Commission on Youth staff did not yet develop Recommendations for this Finding but will incorporate feedback from this meeting to formulate Recommendations. Staff will email the Advisory Group members Draft Recommendations for this Finding prior to the November 19 Commission on Youth meeting.

**Finding # 7 – The due diligence search requirement for locating relative caregivers can be problematic for smaller local departments of social services. Guidance is needed to assist in fulfilling this mandate.**

Commission on Youth staff did not yet develop Recommendations for this Finding but will incorporate feedback from this meeting to formulate Recommendations. Staff will email the Advisory Group members Draft Recommendations for this Finding prior to the November 19 Commission on Youth meeting.

## **Adjournment**

The meeting adjourned. Ms. Atkinson informed the Advisory Group that the Draft Recommendations would be updated in the next several days and then shared with the Advisory Group via email. She also informed the members that the Commission would be meeting November 19 to vote on the Draft Recommendations. Prior to the meeting, the Draft Recommendations would be posted to the Commission's website for public comment. She thanked the members for their assistance and suggestions.

*This was an electronic meeting at the following locations:*

Big Stone Gap

Mountain Empire Older Citizens

Newport News

Office of the Honorable Mamye BaCote

Wytheville

Office of the Honorable Anne Crockett-Stark

Staunton

Michelle Lauter

Stonewall Jackson Hotel