



COMMONWEALTH OF VIRGINIA

Commission on Youth



Crossover Youth Information Sharing

September 20, 2021

Will Egen



- The General Assembly and Governor approved SB 1206 (Barker) from the 2021 Session.
- This bill amends § 16.1-300 to permit the records and reports of juveniles to be open to inspection by the Department of Social Services (DSS), local departments of social services, Department of Behavioral Health and Developmental Services (DBHDS), and their local community services boards who provide treatment to the same youth.
- Access to these records by DSS or DBHDS is necessarily preceded by a formal agreement with the Department of Juvenile Justice (DJJ) to provide coordinated services to juveniles who are the subject of the records.



- Prior to making any report or record open for inspection, the court service unit or Department of Juvenile Justice shall determine which reports or records are relevant to the treatment, services, or care of such juvenile and shall limit such inspection to such relevant reports or records.
- Any local department of social services or local community services board that inspects any DJJ juvenile record shall not disseminate any information received from such inspection unless expressly required by law.
- SB 1206 also includes an enactment clause for the Commission on Youth to form a work group to make recommendations on best practices for information sharing.



- At its May 3, 2021 meeting, the Commission on Youth adopted the following study mandate:

The Virginia Commission on Youth shall convene a work group to include representatives from the Department of Juvenile Justice, the Department of Social Services, the Department of Behavioral Health and Developmental Services, the Department of Education, youth and families with lived experience in the juvenile justice and child welfare systems, representatives of Virginia juvenile justice advocacy groups, representatives of local public defender offices, and representatives from other relevant state or local entities. The work group shall review current data and record sharing provisions with regard to youth served by the juvenile justice and child welfare systems and make recommendations on best practices for the sharing, collection, and use of such data and records while respecting the privacy interests of youth and families. The work group shall report its findings and recommendations to the Governor and the Chairmen of the Senate Committee on the Judiciary and the House Committee for Courts of Justice by November 1, 2021.

Crossover Youth Work Group



- Commonwealth's Attorney - City of Radford
- Court Improvement Program, Office of the Executive Secretary, Supreme Court of Virginia
- Court Service Units
 - Fairfax County
 - Virginia Beach
- Department of Behavioral Health and Developmental Services
- Department of Community and Human Services – City of Alexandria
- Department of Juvenile Justice
- Division of Legislative Services
- Family Representative
- Local Department of Social Services - Henrico
- Legal Aide Justice Center
- Senate of Virginia
- Virginia Department of Education
- Virginia Department of Social Services
- Virginia House of Delegates
- Virginia Indigent Defense Commission
- Virginia Poverty Law Center
- Virginia School Boards Association
- Youth Representative



- Chaired by Senator Dave Marsden
- Commission Members, Delegate Rob Bell and Chris Rehak served, as well as SB 1206 bill patron, Senator George Barker.
- Work Group on Crossover Youth Information Sharing met:
 - May 19, 2021
 - June 21, 2021
- The work group heard presentations from the Center for Juvenile Justice Reform at Georgetown University, the City of Alexandria's Crossover Youth Practice Model team, and Maryland's Department of Juvenile Justice.
- The work group also reviewed draft recommendations on best practices for information sharing.

Definition of Crossover Youth



- The term “crossover youth” is broadly defined as a youth who has experienced maltreatment and also engaged in delinquency.
- Sub-categories to this term are “dually-involved youth,” youth who are simultaneously receiving services, at any level, from both the child welfare and juvenile justice systems; and dually-adjudicated youth,” encompassing only those youth who are concurrently adjudicated by both the child welfare and juvenile justice systems.

Definition of Crossover Youth



- Pathways to crossover status:
 - Youth involved in the child welfare system and then the juvenile justice system;
 - Youth who have a history with the child welfare system but no current involvement at the point when they enter the juvenile justice system;
 - Youth who experience maltreatment but have no formal contact with the child welfare system and then enter the juvenile justice system;
 - Youth who are involved in the juvenile justice system when they enter the child welfare system.



What studies show:

- 92% of crossover youth are first involved in the child welfare system.
- 56% of crossover youth are African-American, a disproportionately high number.
- Youth involved in child welfare systems have delinquency petition rates 47% higher than other youth.
- 83% of crossover youth have challenges with mental health or substance abuse.

Foster Care Crossover Youth Numbers



- Under the requirements of the Federal Child Abuse Prevention and Treatment Act (CAPTA), Virginia is required to report “the number of children under the care of the State child protection system who are transferred into the custody of the State juvenile justice system.”

SFY	VA. youth exits from foster care to DJJ custody	Total VA. youth exits from foster care
2015	27	2635
2016	26	2608
2017	37	2619
2018	43	2830
2019	44	2657
2020	36	2782



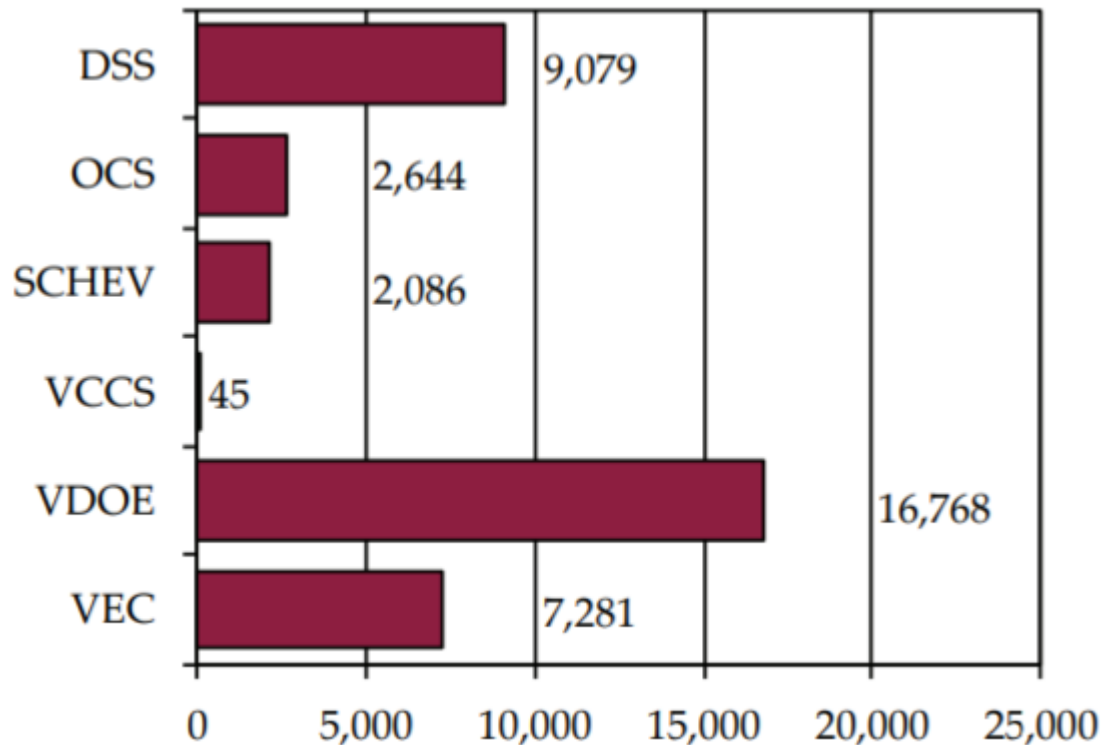
- The Virginia Longitudinal Data System (VLDS) allows for the connection of data across state agencies. Numerous state agencies provide data to the VLDS, including DSS, DJJ, and VDOE.
- A dashboard on the State Council of Higher Education (SCHEV) website presents VLDS partner agency interactions.
- DJJ has been a partner agency since 2018, and is currently planning a research project with VLDS data that will examine the types of DJJ and DSS involvement and prevalence throughout Virginia.

VLDS Dashboard Data

- Between CY 2010 and CY 2017, the number of juveniles involved with DJJ who matched to a VLDS partner agency ranged from 27,151 to 29,745.
- Of the juveniles involved with DJJ who matched to a VLDS partner agency, approximately 43.0% had concurrent involvement with DJJ and DSS each year between CY 2010 and CY 2015.



DJJ Matches by Matched Agency, CY 2016* (Source: DJJ Data Resource Guide, FY 2019)



* Juveniles are matched based on the year of service delivery. Juveniles are matched if they had an intake, Virginia Juvenile Community Crime Control Act (VJCCCA) service, pre-D detainment, post-D detainment, or direct care admission and interacted with a VLDS partner agency during the same CY.

* VDOE and Adult Education are combined.

* DSS data for CY 2016 is incomplete; in CY 2015, there were 12,146 juveniles who had concurrent involvement with DSS.

* Agency Acronyms: DSS - Department of Social Services, OCS - Office of Children's Services, SCHEV - State Council of Higher Education for Virginia, VCCS - Virginia Community College System, VDOE, Virginia Department of Education, VEC - Virginia Employment Commission.

- In 2016, 28,195 juveniles matched to a VLDS partner agency.



CROSSOVER YOUTH INFORMATION SHARING

Laws and Regulations on Privacy and Confidentiality

Federal Laws and Regulations



- Child Abuse Prevention and Treatment Act (CAPTA) – States must ensure “methods to preserve the confidentiality of all records in order to protect the rights of the child and of the child’s parents or guardians.”
- Title IV-B and IV-E of the Social Security Act – Limits disclosure of information and establishes that “the release or use of information concerning individuals applying for or receiving financial assistance is restricted to persons or agency representatives who are subject to standards of confidentiality which are comparable to those of the agency administering the financial assistance programs.”
- Juvenile Justice and Delinquency Prevention Act (JJDP A)– States must ensure procedures for privacy if they receive funds under this act.



- Substance Use Disorder Patient Records – Federal laws and regulations strictly limit disclosures of diagnosis or treatment in federally assisted programs. Release of information requires specific patient consent.
- Health Insurance Portability and Accountability Act (HIPAA) – HIPAA’s privacy rule generally prevents the release of protected health information without written consent of the patient. Exceptions do apply, such as to an individual’s other treatment providers.
- Family Educational Rights and Privacy Act (FERPA) – FERPA provides that information in a child’s educational record may not be disclosed without the prior signed consent of the student’s parents. There are exceptions, including one for caseworkers, referred to as the Uninterrupted Scholars Act.



- The confidentiality of Virginia Department of Juvenile Justice records is controlled by § 16.1-300.
- The Department of Juvenile Justice also has extensive regulations governing juvenile information record keeping under 6 VAC 35-160.
- The *Code of Virginia* also has sections that penalizes recipients of confidential juvenile information, who improperly disclose or use the information, § 16.1-225, Class 2 misdemeanor and § 16.1-309, Class 3 misdemeanor.
- In practice, most individual records requests can be handled at the Court Service Unit level. The Department also has forms on their website for individuals to request their records or authorize a release.



Information Sharing in Social Services

§ 63.2-104

Confidential records and information concerning social services; penalty.

“The records, information and statistical registries of the Department, local departments and of all child-welfare agencies concerning social services to or on behalf of individuals shall be confidential information, ... such records, information and statistical registries may be disclosed to any person having a legitimate interest in accordance with state and federal law and regulation.”

§ 63.2-105

Confidential records and information concerning social services; child-protective services and child-placing agencies.

“The local department may disclose the contents of records and information learned during the course of a [CPS] investigation or during the provision of [CPS] to a family, without a court order and without the consent of the family, to a person having a legitimate interest when in the judgment of the local department such disclosure is in the best interest of the child who is the subject of the records.”



Information Sharing in Social Services

22 VAC 40-910-100

Confidential client information pertaining to social services programs.

This regulation section discusses the confidentiality of social services information, the discretionary release of confidential records to persons having a legitimate interest, and outlines statutes and regulations that provide guidance on the definition of legitimate interest.

22 VAC 40-705-160

Releasing information.

“To determine whether a person has a legitimate interest and the disclosure of information is in the best interest of the child:

1. The information will be used only for the purpose for which it is made available;
2. Such purpose shall be related to the goal of child protective or rehabilitative services; and
3. The confidential character of the information will be preserved to the greatest extent possible.”



CROSSOVER YOUTH INFORMATION SHARING Best Practice Themes



- Guidance
- Memorandum of Understanding
- Training
- Gathering and Using Data and Information
- Other



- Department of Social Services (DSS) provides guidance on information sharing for the Child Protective Services program.

Virginia Department of Social Services
Child and Family Services Manual

July 2021
C. Child Protective Services

9.7 Release information to legitimate interests

If an LDSS receives a request for information about a CPS case, and release of that information is not mandated or prohibited by Federal law, the Code of Virginia, or the VAC, then release of that information is at the discretion of the LDSS. All records and statistical registries of the LDSS and of the local boards, including child protective service records, are confidential. Code of Virginia §§ [63.2-104](#) and [63.2-105](#) provide access to a person with a legitimate interest when access is in the best interest of the child.

- This section gives the definition of “legitimate interest” and lists examples of parties considered to have a legitimate interest. DSS also has guidance on records confidentiality in their Foster Care manual on *Opening and Maintaining the Case*.



- Provide up to date guidance that takes into account federal law, the *Code of Virginia*, regulations, and best practices.
 - What information does each department collect and maintain,
 - Permissible reasons for requesting and sharing information,
 - What the process is for how information is to be shared,
 - Steps in place to protect information,
 - Procedures for obtaining informed consent,
 - What are the statutory requirements from the federal and state government that protect confidentiality, and
 - What steps are in place to ensure staff is properly trained on information sharing protocols.

**Office of Juvenile Justice
and Delinquency
Prevention (OJJDP) on
guidance:**

“Privacy and information sharing policies protect juvenile information sharing participating agencies and facilitate information sharing. These policies strengthen public confidence in ... participating agencies’ ability to handle information appropriately.”



OJJDP guideline for MOU for Juvenile Information Sharing (JIS)

JIS purpose(s).
Governance.
JIS participating agencies and their responsibilities.
Shared funding and costs.
Legal authority for and restrictions on disclosure of information.
Common consent form.
Access to and use of information.
Information that will be shared.
Privacy policies and notification requirements.
Infrastructure for information sharing.
Information security.
Penalties for improper disclosure or use.
Auditing requirements.
Continuous quality improvement.
Maintenance of technology and software.
Training.
Resources to support information technology for JIS participating agencies.
Communications support and resources.
Conflict resolution process.

- OJJDP recommends agencies use an MOU to verify agreed upon policies and procedures.
- Example MOUs from CJJR CYPM* typically include, a purpose or mission, goals and agreements, and general terms, such as effective time and renewals.

Memorandum of Understanding



- Create a model memorandum of understanding that sets forth the respective roles and responsibilities of court service units, local departments of social services, and community services boards on the information sharing of youth records.
- The court service units, local departments of social services, and community services boards in each local area serving youth shall enter into a memorandum of understanding based on a model memorandum of understanding.

Memorandum of Understanding



- Identify specific issues that must be included in a MOU:
 - How a multi-agency youth is identified and shared between agencies at initial point of contact,
 - How past (non-ongoing) youth agency involvement is identified and shared, with informed consent, and
 - Who is responsible for identifying potential crossover youth at each local agency.
- Require that local departments of social services have agreements in place with court service units and community services boards regarding the immediate identification of and sharing of crossover youth status at initial point of contact. (Requirement is not to prescribe what the agreement should be.)



The Center for Juvenile Justice Reform CYPM on goals of training in crossover youth work:

“To educate system partners on how each agency or entity functions on a daily basis, thus challenging long-standing assumptions that can create barriers to collaboration.”

- Have state agencies provide initial and on-going employee training on youth information sharing to the local agencies.
- Have local departments undertake cross-agency training on information sharing as a way to learn about the other agency’s protocols and discuss their shared memorandum of understanding.



- Use de-identified data to help state agencies tackle public policy issues. DJJ wants to use VLDS data to study cross-system involvement and examine topics such as positive youth outcomes, educational outcomes, and employment.
- Share de-identified data between local agencies with the goal of local system improvement and trend monitoring.
- Use technology to identify and share crossover youth status at initial contact point with an agency to ensure proper service delivery.

Models for Change on using information to meet program and system goals:

“Information sharing should help coordinate multiple services provided to the same family or child, facilitate services or treatment, improve case and management-level decision making, and help identify children at risk of maltreatment or delinquency.”



- **Services for students with emotional and intellectual disabilities:** Look at methods to ease the transition to adulthood for students who access services provided in an education setting. Ensure an appropriate information handoff is made before a child reaches 18.
- **Social History:** A social history (§ 16.1-273) is a pre-disposition report prepared in accordance with 6 VAC 35-150-336 that includes the social, medical, and psychological information about the juvenile. A social history is confidential according to § 16.1-305, This report is open for inspection to the attorney for the youth or youth, but they are not permitted to keep a copy (§ 16.1-274). No work group consensus was made on further access.
- **Crossover Youth Practice Model (CYPM):** A few work group members expressed support for expanded adoption of the CYPM across Virginia.



“I now have a better understanding of the collateral consequences of having a juvenile adjudication.” ... “This is about agencies working together in a coordinated way to share information so that we can properly treat these kids and families and keep them in the community, giving them better outcomes.”

– Sonnja Brown, City of Alexandria, Family Support Partner

On local department communication to potential foster families:
“When you are in foster care, the person who makes decisions for you is yourself as well as your foster care worker. So there should be some way for the child to advocate for themselves, to say ‘please help me, but do it transparently so [potential foster families] understand.’”

– Noah Hamric, Crossover Youth Work Group Participant



CROSSOVER YOUTH INFORMATION SHARING Findings and Recommendations



Finding: The creation or updating of guidance would benefit workers as well as the public in understanding Virginia's information sharing laws, regulations, and practices.

Recommendation 1:

Request the Department of Juvenile Justice, Department of Social Services, and the Department of Behavioral Health and Developmental Services, respectively, to create or update guidance on youth information sharing for use at the state level and for dissemination and use at the courts service units, local departments of social services, and community services boards.

This guidance on information sharing should focus on, but not be limited to, detailing what information is to be collected and maintained by the department and local agencies, clarifying permissible reasons to share information, reasons to request information, the process for how information is to be shared, steps in place to protect information, procedures for obtaining informed consent, the statutory requirements from the federal as well as state government that controls the dissemination of information in the Department's possession, and steps to ensure staff is properly trained on information sharing protocols. (cont. on next slide)



Recommendation 1 (cont.):

Guidance shall be open for comment on the Virginia Regulatory Town Hall public comment forum and once implemented at the state department and local level be made available to the public on their websites.



Finding: Confusion exists about whether information can be shared under the social services confidentiality statutes in order to identify a crossover youth at initial system involvement. The establishment of agreements between agencies would end this confusion.

Recommendation 2:

Amend the *Code of Virginia*, sections 63.2-104/63.2-105 to indicate that the immediate identification of and sharing of crossover youth status between local departments and court service units and community services boards is to be done in accordance with established agreements between the local agencies. Any court service unit or community services board to which such records are disclosed in accordance with an agreement shall not further disclose any information received unless such further disclosure is expressly required by law.



Finding: Establishing a model memorandum of understanding in the *Code of Virginia* would provide a good starting place to localities and also allow for local flexibility.

Recommendation 3:

Amend the *Code of Virginia* to direct the Department of Juvenile Justice to develop and biennially update a model memorandum of understanding setting forth the respective roles and responsibilities of court service units, local departments of social services, and community services boards regarding the information sharing of youth records.

This model memorandum of understanding may include topics on, who has access to youth information, a listing of the information that will be shared, reasons for use of shared information, privacy policies and any individual or parent/guardian notification requirements, and steps to be used to keep the information secure. This model memorandum of understanding shall be disseminated to local agencies for their adaptation and use. (cont. on next slide)



Recommendation 3 (cont.):

In developing the model memorandum of understanding the Department of Juvenile Justice shall collaborate with the Department of Social Services, Department of Behavioral Health and Developmental Services, the Office of Children's Services, Department of Criminal Justice Services, court service units, local departments of social services, community services boards, youth and family representatives, a nationally recognized expert on cross agency youth best practices, and any other interested stakeholders that it deems appropriate to biennially update the model memorandum of understanding.

The court service units, local departments of social services, and community services boards in each local area serving youth shall enter into a memorandum of understanding that sets forth the responsibilities of each local agency regarding the information sharing of youth records. The provisions of such memorandum of understanding shall be based on the model memorandum of understanding developed by the Department of Juvenile Justice, which may be modified by the parties in accordance with their particular needs. (cont. on next slide)



Recommendation 3 (cont.):

Each adopted memorandum of understanding shall include agreements on the following, (i) the manner in which a multi-agency youth is identified and shared between agencies, including when at the point of court service unit intake, probable cause determination, and validated referral at a local department of social services, for older children, (ii) the manner in which past (non-ongoing) youth agency involvement is identified and shared, with the informed consent of the youth and guardian, and (iii) who at each local department is responsible for identifying potential crossover youth.

Each such court service unit, local department of social services, and community services board shall conduct at least yearly recurring cross-agency training on information sharing as a way to learn about other agency's protocols and to revisit and discuss the shared memorandum of understanding. Local agencies shall also review and amend or affirm such memorandum of understanding at least once every two years or at any time upon the request of either party.



Finding: Further efforts are needed to see how a system can be set up to enable local agencies to safely share de-identified data for local system improvement.

Recommendation 4:

As an enactment clause, direct the Department of Juvenile Justice to create a pilot project for the purpose of enabling local agencies to share de-identified data on multi-system involved youth with the goal of local system improvement and trend monitoring. The Department of Juvenile Justice shall solicit applications for the pilot project and accept from one to three applicants made up of local agencies that serve crossover youth. All three entities that make up an applicant, a court service unit, local department of social services, and community services board, shall jointly agree to work together in the sharing of information. The results of the pilot shall be reported back to the Commission on Youth by November 1, 2023.



Finding: Effective initial and ongoing training on information sharing would ensure workers are up to date on using and safe guarding juveniles' data.

Recommendation 5:

Request the Department of Social Services, Department of Juvenile Justice, and Department of Behavioral Health and Developmental Services provide initial employee and ongoing training on youth information sharing for their local agencies, local departments of social services, court service units, and community services boards, respectively. Topics should include, but are not limited to, state and federal confidentiality laws, protocols for safe guarding data, and procedures on informed consent to release information.



Finding: The Office of Data Governance and Analytics advises on the dissemination of data. They maintain the Data Trust, which could be used to identify crossover youth.

Recommendation 6:

Request the Office of Data Governance and Analytics to work with the Department of Juvenile Justice, Department of Social Services, Department of Behavioral Health and Developmental Services and other applicable stakeholders to create a plan to use the Commonwealth Data Trust to enable local departments to identify and share crossover youth status at the youth's initial contact point with an agency for purposes of service delivery.

This plan should identify what systems, and the records or information therein, that must be made available to the Data Trust to identify and share crossover youth status at initial point of contact with the respective agencies, what consents need to be obtained from the youth and guardians, what agreements need to be made between the relevant agencies as well as with the Office of Data Governance and Analytics, and what legislative or funding changes if any will be necessary to implement this practice. The Office of Data Governance and Analytics shall report back its findings and recommendations to the Commission on Youth by November 1, 2022.



Finding: The Department of Juvenile Justice has recently been formulating plans to use VLDS data to conduct research projects.

Recommendation 7:

Request the Department of Juvenile Justice (DJJ) to conduct a study using Virginia Longitudinal Data Systems (VLDS) data to analyze the crossover youth population in Virginia. The Department of Juvenile Justice shall work with the Department of Social Services and other relevant VLDS member state agencies on this study.

The Department of Juvenile Justice shall identify and interpret demographic data and available and relevant outcomes data on the crossover youth population. Additionally, DJJ shall make recommendations on how to improve the collection, sharing, and analysis of de-identified data based on this study. The Department of Juvenile Justice shall report back its findings and recommendations to the Virginia Commission on Youth by November 1, 2022.



Finding: Young adults with emotional or intellectual disabilities often lose access to services when they leave high school. This can also be a confusing time for parents to navigate without supports.

Recommendation 8:

Request the Commission on Youth to conduct a study in 2022 to look at how youth who are being provided services in the school, including mental health services, can be better supported as they transition to adulthood. This study should look at ways that the Community Services Boards can work with the transitioning student and family and the local education agency.



Public Comment

Written public comment must be
received by 5:00 p.m.
on October 14, 2021.

Submission instructions are available
online (<http://vcoy.virginia.gov>)