

VIRGINIA COMMISSION ON YOUTH
Study on Legal Guardianship of a Minor by Court Petition

Draft Recommendations

GUARDIANSHIP MODEL

Three types of guardianship are being considered:

General Guardianship: Does not require parental consent for the filing of the petition, but notice must be given and a hearing must occur. A person interested in the welfare of a minor, or the minor if he or she is 14 years of age or older, may petition the court.

- Used for kinship diversion.
- May be used as a tool for a child 14 years of age or older.
- Guardianship duration is typically until child turns 18.
- Interested party would take part in a family partnership meeting and a court hearing.
- Court periodically reviews, and the rights of parents are not terminated.

Temporary Guardianship: If necessary to protect the child, the court may appoint a temporary guardian for six months.

- A temporary guardian is appointed only in the course of proceeding for a general guardianship.

Limited Guardianship: Requires voluntary consent of the parent or parents who have legal custody of the child. It is a court-sanctioned consent arrangement. In addition to finding parental consent, the court must approve a limited guardianship placement plan agreed to by the parties.

- Used in situations where parents are having substance abuse issues or housing insecurity, for example.
- Limited guardianship uses a placement plan that includes reason, duration, parenting time, financial support, and any other agreed upon stipulations.
- Requires parental consent and a court hearing.
- Guardianship can be reviewed and rescinded at any time by the parent.

Draft Recommendations:

1. Amend the *Code of Virginia* to implement all proposed guardianship models, including general, temporary, and limited.

or
2. Amend the *Code of Virginia* to implement limited guardianship solely.

Either of the recommendations to amend the *Code of Virginia* would include language to provide for case management services to families when requested or determined by the court. Also, the proposed legislation would incorporate school placement authority language for a guardianship arrangement.

FAMILY PARTNERSHIP MEETINGS

Currently, family partnership meetings (FPMs) are only found in guidance and referenced in regulations.

Draft Recommendations:

3. Amend the *Code of Virginia* to add the family partnership meeting process to *Code* language. This recommendation would define FPM in the *Code* and cross-reference where it may be used, but this recommendation would not mandate its use.

or
4. Amend the *Code of Virginia* to make the family partnership meeting process mandatory under the situations found in current Department of Social Services guidance:
 - For all decisions involving prevention of out-of-home placements in CPS families assessed at “very high” or “high” risk of abuse or neglect.
 - Prior to a child’s removal from a birth or adoptive family.
 - Prior to a change of placement.
 - Prior to a change of goal.
 - When a meeting is requested by the parent, child, or service worker.

KINSHIP NAVIGATOR

The 2020 Appropriation Act contains language that states: “The Department of Social Services shall develop a plan to provide access statewide to a Kinship Navigator Program which will provide services to kinship caregivers who are having trouble finding assistance for their unique needs and to help these caregivers navigate their locality's service system, as well as federal and state benefits.”

Kinship Navigators already funded across the state in various localities are supported by Federal grant dollars.

Draft Recommendation:

5. Introduce a budget amendment to enact funding for a statewide Kinship Navigator program.

SCHOOL PLACEMENT OF CHILDREN IN KINSHIP CARE

Section § 22.1-3 (A) (4) of the *Code of Virginia* addresses public school enrollment for children in kinship care. Senator Barker carried this bill in 2016, and it was signed into law ([Senate Bill 776](#)). Under this subsection, the *Code* states that “a school division may also require the parent or adult relative to obtain written verification from the local department of social services” regarding the kinship arrangement. This requirement presents a barrier to grandparents attempting to enroll grandchildren in school.

Consideration for Advisory Group:

Does guardianship remedy the potential barriers in this *Code* section?