

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

Draft Findings and Recommendations

GUARDIANSHIP MODEL

Limited Guardianship

Draft Findings:

Finding 1:

The proposed limited guardianship model requires the 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 that is agreed to by the parent(s) and the limited guardian.

Finding 2:

Limited guardianship would be used in situations where parents are seeking treatment for substance abuse issues or have housing insecurity, for example. The placement plan used for a limited guardianship, which is approved by the court, includes items such as reason, duration, parenting time, financial support, and any other agreed upon stipulations.

Finding 3:

This limited guardianship arrangement would allow for the guardian to access school enrollment, medical care, and health care coverage for the child under their care.

Draft Recommendation:

Amend the *Code of Virginia* to implement the limited guardianship model in Virginia. In *Code* language, enshrine the right of the limited guardian to access school enrollment, medical care, and health care coverage for the child under their care.

Full/Permanent and Temporary Guardianship

Draft Findings:

Finding 1:

The proposed full/permanent guardianship model does not require parental consent for the filing of the petition, but notice must be given to all parties 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 for full/permanent guardianship.

Finding 2:

The proposed full/permanent guardianship model is used in situations where parent is absent and does not provide for his or her minor child's care or maintenance. The proposed guardianship model would be available for use to families outside of the child welfare system and well as inside. The model does not presume to require the involvement of a local department of social services.

Finding 3:

Unlike an appointment of custody in current law, under the proposed full/permanent guardianship model, a guardian must file yearly reports to the court.

Finding 4:

Under this model, temporary guardianship is appointed only in the course of a proceeding for a full/permanent guardianship. The court may appoint a temporary guardian for up to six months.

Finding 5:

Feedback from the first two Advisory Group meetings included that there is "Confusion about whether a non-biological person who has court-ordered custody is a legal guardian." (Yes.) And that, "under Virginia law, a parent and non-parent may share custody, both physical and legal."

Draft Recommendation:

Amend the *Code of Virginia* to implement the full/permanent guardianship model in Virginia and temporary guardianship. In *Code* language, enshrine the right of a

guardian to access school enrollment, medical care, and health care coverage for the child under their care.

In order to effectuate the above change, the term “guardianship” would be used in place of “custody” for situations when a court is granting legal rights to a third party relative/fictive kin for the minor in question.

This recommendation would ensure that best interests of the child analysis is used and specifically tailored to guardianship.

FAMILY PARTNERSHIP MEETINGS

Draft Findings:

Finding 1:

Currently, family partnership meetings (FPMs) are only found in guidance and referenced in regulations. Guidance indicates that these meetings are to be held:

- 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.

Finding 2:

Feedback from the first two meetings includes support for this proposal among some stakeholders. While others express the opinion that because FPMs are a social work practice, it is unnecessary and not appropriate for the practice to be codified.

Draft Recommendation:

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.

KINSHIP NAVIGATOR

Draft Findings:

Finding:

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

Draft Recommendation:

Introduce a budget amendment to enact funding for a statewide Kinship Navigator Program. The budget amendment amount will be based on input from the Virginia Department of Social Services.