



# Virginia Commission on Youth 2024 Legislative Studies and Initiatives

## The Use and Impact of Relief of Custody on Care and Support of Youth

Draft Recommendations	Public Comment
<p><b>Changes to the Relief of Custody sections in the <i>Code of Virginia</i>:</b></p> <p><u>Recommendation 1:</u> Amend the <i>Code of Virginia</i> to standardize the pre-hearing “investigation” in § 16.1-277.02 (A) by requiring the local department of social services, at a minimum, put together a written home study report on the child and family.</p> <p>The Department of Social Services shall create guidance for a template on what should be included in this home study. This template should include best practices, not limited to background on the full history of child and family (medical and mental health, legal, educational, information from providers), and the exploration of all relatives and fictive kin. Information on what services are being and have been offered to the child and family and potential use of a family partnership meeting should also be in the home study.</p>	<p><b>Virginia League of Social Services Executives (VLSSE):</b> While VLSSE is not opposed to a standardized investigation process developed in partnership with the Virginia Department of Social Services, increased funding for staff at local departments should be provided if the standardized process includes all the recommended elements. Funding should be allocated to local departments of social services based on the number of relief of custody petitions filed in the locality.</p> <p><b>City of Williamsburg Human Services:</b> “I support the recommendation that the local department of social services should engage with families prior to a hearing for relief of custody. Ample notice will be needed in order for social services staff to conduct an assessment of the family’s needs, facilitate a family partnership meeting, and prepare a summary for the court.”</p> <p><b>Voices for Virginia’s Children:</b> Voices supports Recommendation 1.</p> <p><b>Virginia Poverty Law Center (VPLC):</b> “VPLC believes codifying a “pre-hearing investigation” requirement should not be implemented. It would be burdensome to local</p>

Recommendation 2a: Amend the *Code of Virginia* § 16.1-277.02 that when investigating a petition for Relief of Custody, the local department of social services **shall** refer the parent to the local Family Assessment and Planning Team (FAPT).

or

Recommendation 2b: Amend the *Code of Virginia* § 16.1-277.02 that when investigating a petition for Relief of Custody, the local department of social services **may** refer the parent to the local Family Assessment and Planning Team (FAPT).

departments, delay getting help to families, and use resources that would best be spent on actual services.”

“A better approach: create a form on which custodians may list what they have already tried to access, and what resources they believe could help, if they were available This, in conjunction with Recommendation 11 & 13, could help Court Services Units determine if there are existing resources not yet tapped that they may refer the family to before intake.”

**James City County CSA:**

Shares concerns it has with Recommendation 2 and recommends alternative language. “The purpose of the FAPT is to evaluate families for eligibility for CSA and develop a service plan when there is a need that *is beyond normal agency resources*. Prior to referring a family to FAPT, the DSS should assess the family for needs which can be done prior to a FAPT referral either through intake or through a Family Partnership Meeting designed to assess formal and informal resources available to the family.”

Alternate Language could read as follows: DSS will conduct a Family Partnership Meeting to assess the family’s needs and develop an intervention plan based on the needs of the family which may require a referral to the local CSA program.

**Virginia Association of Licensed Child Placing Agencies:**

Currently the second recommendation reads, “the local department of social services shall refer the parent to the local Family Assessment and Planning Team (FAPT). [A] panel of CSA Coordinators were concerned about the use of the word “refer”. To them, that meant that a family would need to go through the entire FAPT process before the parent and courts (Judge) could move forward with the relief of custody. I can see their point. Going through the entire FAPT process could be a lengthy process depending on the locality’s capacity to FAPT the family in a timely manner.

**Virginia League of Social Services Executives (VLSSE):**

“While VLSSE supports referrals to the local FAPT for relief of custody petitions, language similar to that below should be added as follows:

‘...the local department of social services shall refer the parent to the local Family Assessment and Planning Team (FAPT) if such referral has not been made previously. Such referral by the local department of social services will not preclude the local FAPT from identifying a case manager other than the local department of social services should services be approved.’”

**City of Williamsburg Human Services:**

“FAPT meetings are reserved for families who are receiving mandated services that need CSA funding. The recommendation is to reword #2 to state ‘DSS will conduct an assessment of the family’s needs and develop an intervention plan based on the needs of the family which may result in a referral to the local CSA program.’”

**UMFS:**

“If this recommendation is to ensure families are informed and know what services are available that could be more explicitly stated so that it is not interpreted as a requirement in the process, but rather as support to the family.”

**Albemarle CPMT & Charlottesville CPMT:**

“Clarification is needed regarding the purpose of the FAPT referral. Prior to referring the family to FAPT, the DSS should assess the family for needs, explore informal supports, and refer to community based services as appropriate.”

**Virginia Poverty Law Center (VPLC):**

VPLC agrees that making existing pathways for providing support available to families is a good approach.

Recommendation 3: Amend the *Code of Virginia* § 16.1-277.02 (C) to include “a petitioner’s diligent efforts to utilize services offered by the local department of social services or other agency (CSA, CSB)” as a factor in the judge’s consideration of “good cause shown” for the petitioner's desire to be relieved of the child's care and custody.

**Virginia League of Social Services Executives (VLSSE):**

VLSSE supports Recommendation 3.

**UMFS:**

Has a “concern is that this recommendation places an undue burden on families and may not be implemented with a family-centered approach. The concept of "diligent efforts" is vague and open to subjective interpretation. With long waitlists or a lack of available services, families are often met with roadblocks and told "no" when attempting to access help. However, if appropriate services are offered to the family, then they should attempt to participate in them.”

Alternate Language could read as follows: diligent efforts to attempt to access community-based services.

**Virginia Poverty Law Center (VPLC):**

Does not believe Recommendation 3 should be implemented. “If there must be any documentation of “diligent efforts,” this burden should be on the local department of social services rather than on the family already stretched to this breaking point.”

**Voices for Virginia’s Children:**

“Voices supports the intent of Recommendation 3 to mitigate premature relief of custody through ensuring that petitioners and their children are connected to services and have ample time to access said services with support of their LDSS. We are curious; however, how “diligent efforts” will be defined in practice. Caregivers face significant barriers to accessing services, particularly mental health services...Even with support from LDSS, system-wide challenges and provider shortages outside of petitioners’ control make it difficult in utilizing mental health services.”

Recommendation 4: Amend the *Code of Virginia* to increase the standard of evidence for granting temporary Relief of Custody. Currently, temporary Relief of Custody requires “a finding, based upon a preponderance of the evidence, whether there is good cause shown for the petitioner's desire to be relieved of the child's care and custody.” Permanent relief of custody requires “a finding, based upon clear and convincing evidence, whether termination of parental rights is in the best interest of the child.” This amendment to the *Code* would change the language in § 16.1-277.02 (C) to: “a finding, based upon a ~~preponderance of the evidence~~ *clear and convincing evidence*, whether there is good cause shown for the petitioner's desire to be relieved of the child's care and custody.”

**Virginia League of Social Services Executives (VLSSE):**  
VLSSE supports Recommendation 4.

**UMFS:**  
Has concerns regarding Recommendation 4. “Without additional resources or options, making relief of custody more difficult could leave children without the help they need, exacerbating the challenges faced by their families. This could lead to unsafe situations, including potential abuse, neglect, or other risks.”

**Albemarle CPMT & Charlottesville CPMT:**  
“[We] are in support of more stringent language. If temporary relief of custody has been granted and the child is in foster care, permanent relief of custody should not be granted if filed and the petitioner should be required to cooperate with a foster care service plan.”

**Virginia Poverty Law Center (VPLC):**  
VPLC disagrees with the approach of Recommendation 4. “VPLC believes that there are good reasons for the two differing levels of proof for granting temporary vs permanent relief of custody. A better approach: implementing Recommendation 13, to expand training and best practices in Virginia’s JDR courts.”

**Changes to the Code of Virginia regarding CSA Parental Agreements:**

Recommendation 5: Amend the *Code of Virginia* § 2.2-5211 and 2.2-5212 to clarify that children in need of services are eligible for Children’s Services Act (CSA) parental agreements and community based services.

**Albemarle CPMT & Charlottesville CPMT:**  
“[We] are in support of this recommendation that would allow for local CSA programs to be able to provide family-focused, child-centered services to prevent potential foster care placements.”

**Virginia Poverty Law Center (VPLC):**  
VPLC inquires whether this recommendation necessary, given the Attorney General’s advisory opinion, 05-095-Fralin.

<p><b>Recommendation related to Community Based Services and CSA Parental agreements:</b></p> <p><u>Recommendation 6:</u> Request that the Office of Children’s Services work with local Children’s Services Act coordinators and the County or City’s appropriate public outreach specialist to create a strategy to publicize community based services or parental agreements to relevant local partners and agencies as a viable option for families before they reach the point of petitioning for Relief of Custody.</p>	<p><b>Virginia Poverty Law Center (VPLC):</b> Supports “interagency collaboration and cooperation as a way to address services gaps.”</p>
<p><b>Recommendations on adoption and adoption disruption:</b></p> <p><u>Recommendation 7:</u> Request the Department of Social Services create guidance or initiate regulatory changes to strengthen the ability of adoptive families to find and obtain services in their current locality if the family has moved localities after an adoption is finalized. The Department of Social Services shall report back on these changes to the Commission on Youth by November 1, 2025, including if any changes to the Code are necessary to fully support this recommendation.</p> <p>Currently, under § 63.2-1220, “the Department shall furnish a document listing all post-adoption services available to adoptive families to the State Registrar of Vital Records for distribution to adoptive parents pursuant to § 32.1-261.” However, over time parents may lose track of this information or service availability may change.</p>	<p><b>Voices for Virginia’s Children:</b> Voices supports Recommendation 7.</p> <p><b>Albemarle CPMT &amp; Charlottesville CPMT:</b> Support Recommendation 7.</p> <p><b>Virginia Poverty Law Center (VPLC):</b> VPLC supports Recommendation 7.</p>

<p><b><u>Recommendation 8:</u></b> Request that the Virginia Association of Licensed Child Placing Agencies, Family Focused Treatment Association, and other organizations representing licensed child placing agencies work with their members to ensure that pre-adoption training emphasize trauma-informed parenting, and cover topics including:</p> <ul style="list-style-type: none"> <li>• commonly-occurring mental health and neurodevelopmental conditions</li> <li>• child and adolescent development</li> <li>• building and utilizing support systems</li> <li>• supports available to adoptive families</li> <li>• <u>specific mental and behavioral health needs of adopted youth</u></li> </ul>	<p><b>Voices for Virginia’s Children:</b>  “Voices supports Recommendation 8 and suggests that the Commission on Youth consider adding language to address the specific mental and behavioral health needs of adopted youth. There is significant research on the trauma of family separation via foster care; however, there is little discussion about the trauma of post-adoption for young people – whether these adoptions happen during infancy or early adulthood. A caregiver's knowledge of the needs of this particular population is imperative to understanding the young person they are choosing to give permanency.”</p> <p><b>Albemarle CPMT and Charlottesville CPMT:</b>  “[We] recommend this training also be offered to local foster homes, not just Licensed Child Placing Agencies.”</p> <p><b>Virginia Poverty Law Center (VPLC):</b>  VPLC supports Recommendation 8.</p>
<p><b>Recommendation related to mental health in the schools:</b></p> <p><b><u>Recommendation 9:</u></b> Require that the Virginia Department of Education (VDOE) survey local education agencies (LEAs) to review i) how schools currently grant access to Local Departments of Social Services and Community Services Boards <u>and other community-based providers</u>—and ii) what school-based mental health options are available at each LEA. Additionally, the results and feedback from this survey shall inform the continued development and improvement of guidelines for school professionals that support students and families that connect them with community resources that provide mental and behavioral health services. VDOE shall report back any findings and recommendations based on their survey to the Commission on Youth by November 1, 2025.</p>	<p><b>Voices for Virginia’s Children:</b>  Voices supports Recommendation 9. “We further suggest that the survey should review how schools currently grant access to community-based providers and other service providers, such as Federally Qualified Health Centers, who support the integration of mental health services in schools for students.”</p> <p>“The Behavioral Health Commission has studied how to best maximize school-based mental health services through community-based partnerships via the “school-based mental health integration pilot.” However, we have yet to see a comprehensive survey that provides localities with the opportunity to state what they have and what they need to successfully meet student mental health needs.”</p>

	<p><b>Albemarle CPMT and Charlottesville CPMT:</b> Comments that “more detailed information and clarification is needed regarding the data being collected from this survey.”</p> <p><b>Virginia Poverty Law Center (VPLC):</b> Supports the “development of guidelines for school mental health personnel to connect families with community mental health resources.”</p>
<p><b>Recommendation on increased collaboration and models:</b></p> <p><u>Recommendation 10:</u> Request that the Department of Social Services with <del>assistance from</del> the Virginia League of Social Services Executives <u>as a key stakeholder</u>, compile and make available information gathered from local departments on best practices regarding collaboration between local agencies and judges regarding relief of custody. This should include details on the frequency of meetings, types of shared information, methods of communication, and recommendations for improving engagement. This recommendation <del>will help</del> <u>aims to provide local departments with model examples of where things are going well</u> <u>effective practices in place</u>.</p>	<p><b>Voices for Virginia’s Children:</b> Voices supports Recommendation 10.</p> <p><b>Virginia League of Social Services Executives (VLSSE):</b> VLSSE supports Recommendation 10.</p> <p><b>Virginia Poverty Law Center (VPLC):</b> VPLC supports Recommendation 10.</p>
<p><b>Recommendations on involved stakeholder best practices:</b></p> <p><u>Recommendation 11:</u> Request that the Department of Juvenile Justice develop best practices to distribute to its court service units for when a parent comes in to intake desiring to petition for relief of custody to inform them of services available in their community.</p>	<p><b>Virginia League of Social Services Executives (VLSSE):</b> VLSSE supports Recommendation 11.</p> <p><b>Voices for Virginia’s Children:</b> Voices supports Recommendation 11. “There are some situations where families have not been in contact with LDSS or realized they may be able to access supportive services before ending up at a court services unit or calling the police. Our court and law</p>



Recommendation 12: Request that the Department of Social Services, ~~with assistance from~~ in consultation with State partners, including the Virginia Sheriffs' Association, Virginia Association of Chiefs of Police, and the Virginia League of Social Services Executives, ~~come up with~~ develop and distribute best practices to members of the law enforcement community on alternatives to relief of custody ~~for distribution to law enforcement~~ when law enforcement encounters encountering families in crisis. ~~to inform the family of services available in the community. The best practices should inform them of services available in their community to provide appropriate support and resources.~~

Recommendation 12 (clean): Request that the Department of Social Services, in consultation with State partners, including the Virginia Sheriffs' Association, Virginia Association of Chiefs of Police, and the Virginia League of Social Services Executives, develop and distribute best practices to members of the law enforcement community on alternatives to relief of custody when encountering families in crisis. The best practices should inform them of services available in their community to provide appropriate support and resources.

enforcement systems must have access to trauma-informed information and evidence-based programming to direct families to alternative services that will not criminalize youth for mental and behavioral health needs.”

**Virginia Poverty Law Center (VPLC):**  
VPLC supports Recommendation 11.

**Voices for Virginia’s Children:**  
Voices supports Recommendation 12.

**Virginia Poverty Law Center (VPLC):**  
VPLC supports Recommendation 12.

<p><b>Recommendation related to Best Practices Courts:</b></p> <p><u>Recommendation 13:</u> Support the Office of Executive Secretary in their efforts to access federal funds for Best Practices Courts' training and conferences.</p>	<p><b>Virginia League of Social Services Executives (VLSSE):</b> VLSSE supports Recommendation 13.</p> <p><b>Voices for Virginia’s Children:</b> Voices supports Recommendation 13 “and further suggests that the Office of the Executive Secretary offer trainings on trauma-informed best practices.”</p> <p><b>Virginia Poverty Law Center (VPLC):</b> Supports the “expansion of training and best practices in Virginia’s JDR courts.”</p>
	<p><b><u>Additional Public Comment:</u></b></p> <p><b>UMFS:</b> “It appears that some of the recommendations are focusing narrowly on making it more difficult for families to relinquish custody (or have the potential to be interpreted that way at the local level), while failing to address the root causes that have led them to this point. Some of the fundamental issues identified in the statewide round table discussions are not addressed in the recommendations.”</p> <p>“We would like to recommend that COY identify upstream solutions to expand access to community-based services, and to involve the system partners (i.e. schools, CSU, law enforcement) in being able to more effectively direct families to community-based services or accessing FAPT earlier.”</p> <p>“We would recommend looking at service gaps in Virginia (OCS has a survey on this for the state) and what barriers need to be removed to expand provider access for these services, particularly in schools where families are often seeking help first.”</p>

Recommendations for Consideration:

1. **Expand Access to Community-Based Services:** Develop strategies to enhance the availability of upstream services, ensuring families can access support before reaching a crisis point. This includes increasing awareness and removing barriers to accessing Family Assessment and Planning Teams (FAPT) earlier in the process. Some of these services already exist in Virginia but may not be adequately used such as mobile crisis services, crisis stabilization services, school-based mental health services, evidence-based home therapies such as MST and FFT or Intensive Care Coordination using High-Fidelity Wraparound.
2. **Engage System Partners:** Collaborate and educate with schools, Court Service Units (CSUs), and law enforcement to guide families toward community-based resources more effectively. These partners are often the first point of contact for families seeking help, but do not know where to direct families or how to link families to the correct community resources.
3. **Address Service Gaps:** Utilize data from surveys, such as the Office of Children’s Services (OCS) statewide survey, to identify service gaps and remove barriers (funding, referrals and regulatory issues) that limit provider access, particularly in schools where families frequently seek assistance.

**Virginia Poverty Law Center (VPLC):**

“None of the draft recommendations from this study appear to be aimed at correcting the disparity in terms of family supports and services for families.” “VPLC recommends that Virginia focus its resources on expanding services to areas which lack them, and to begin implementing the concept of “Mandated Supporting,” as recommended by the American Federation of Teachers, and implemented in Los Angeles.