

VIRGINIA ACTS OF ASSEMBLY -- 1999 SESSION

CHAPTER 669

An Act to amend and reenact §§ 2.1-746, 2.1-751, 2.1-752, 2.1-754, 2.1-755, 2.1-757, 2.1-758 and 16.1-286 of the Code of Virginia, relating to the Comprehensive Services Act.

[H 2075]

Approved March 28, 1999

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-746, 2.1-751, 2.1-752, 2.1-754, 2.1-755, 2.1-757, 2.1-758 and 16.1-286 of the Code of Virginia are amended and reenacted as follows:

§ 2.1-746. State Executive Council for Comprehensive Services for At-Risk Youth and Families; members; duties.

The members of the state executive council shall be the Commissioners of Health, of Mental Health, Mental Retardation and Substance Abuse Services and of Social Services; the Superintendent of Public Instruction; the Executive Secretary of the Virginia Supreme Court; the Director of the Department of Juvenile Justice; an elected or appointed local official, to be appointed by the Governor; a private provider representative as a nonvoting, ex officio member, to be appointed by the Governor, who may appoint from nominees recommended by the Virginia Coalition of Private Provider Associations; and a parent representative. The parent representative shall be appointed by the Governor for a term not to exceed three years and shall not be an employee of any public or private program which serves children and families. The council shall annually elect a chairman who shall be responsible for convening the council. The council shall meet, at a minimum, semiannually, to oversee the administration of this chapter and make such decisions as may be necessary to carry out its purposes.

The state executive council shall:

1. Appoint the members of the state management team in accordance with the requirements of § 2.1-747;

2. Provide for the establishment of interagency programmatic and fiscal policies developed by the state management team, which support the purposes of this chapter, through the promulgation of regulations by the participating state boards or by administrative action, as appropriate;

3. *Provide for a public participation process for programmatic and fiscal guidelines developed for administrative actions which support the purposes of this chapter. Such public participation process shall include, at a minimum, sixty days of public comment, and the distribution of these guidelines;*

~~3.~~ 4. Oversee the administration of state interagency policies governing the use, distribution and monitoring of moneys in the state pool of funds and the state trust fund;

~~4.~~ 5. Provide for the administration of necessary interagency functions which support the work of the state management team;

~~5.~~ 6. Review and take appropriate action on issues brought before it by the state management team;

~~6.~~ 7. Advise the Governor and appropriate Cabinet Secretaries on proposed policy and operational changes which facilitate interagency service development and implementation, communication and cooperation;

~~7.~~ 8. Provide administrative support and fiscal incentives for the establishment and operation of local comprehensive service systems;

8. 9. Oversee coordination of early intervention programs to promote comprehensive, coordinated service delivery, local interagency program management, and co-location of programs and services in communities. Early intervention programs include state programs under the administrative control of the state executive council member agencies; ~~and~~

10. *Oversee the development and implementation of a mandatory uniform assessment instrument and process to be used by all localities to identify levels of risk of Comprehensive Services Act (CSA) youth;*

11. *Oversee the development and implementation of uniform guidelines to include initial intake and screening assessment, development and implementation of a plan of care, service monitoring and periodic follow-up, and the formal review of the status of the youth and the family;*

12. *Oversee the development and implementation of uniform guidelines for documentation for CSA-funded services;*

13. *Oversee the development and implementation of mandatory uniform guidelines for utilization management; each locality receiving funds for activities under the Comprehensive Services Act shall have a locally determined utilization management plan following the guidelines or use of a process approved by the State Executive Council for utilization management, covering all CSA-funded services;*

14. *Oversee the development, implementation, and collection of uniform data collection standards, and the development of outcome measures; including, but not limited to, expenditures, number of youth served in specific CSA activities, length of stay for residents in core licensed residential facilities, and*

proportion of youth placed in treatment settings suggested by a uniform assessment instrument for CSA-funded services;

15. Oversee the establishment of a dispute resolution procedure, which includes a notice and an appeals process, should the State Executive Council find, upon a formal finding, that a Community Policy and Management Team (CPMT) failed to comply with any provision of this Act, and the procedure shall also include provisions for remediation by the CPMT;

16. Have the authority to deny state funding to a CPMT that fails to comply with the provisions of this Act, in accordance with subdivision 15; and

9- 17. Biennially publish and disseminate to members of the General Assembly and community policy and management teams a state progress report on comprehensive services to children, youth and families and a plan for such services for the next succeeding biennium. The state plan shall:

a. Provide a fiscal profile of current and previous years' federal and state expenditures for a comprehensive service system for children, youth and families;

b. Incorporate information and recommendations from local comprehensive service systems with responsibility for planning and delivering services to children, youth and families;

c. Identify and establish goals for comprehensive services and the estimated costs of implementing these goals, report progress toward previously identified goals and establish priorities for the coming biennium; and

d. Include such other information or recommendations as may be necessary and appropriate for the improvement and coordinated development of the state's comprehensive services system.

§ 2.1-751. Community policy and management teams; membership; immunity from liability.

The community policy and management team to be appointed by the local governing body shall include, at a minimum, *at least one elected official or appointed official or his designee from the governing body of a locality which is a member of the team*, and the local agency heads or their designees of the following community agencies: community services board established pursuant to § 37.1-195, juvenile court services unit, department of health, department of social services and the local school division. The team shall also include a representative of a private organization or association of providers for children's or family services if such organizations or associations are located within the locality, and a parent representative who is not an employee of any public or private program which receives funds pursuant to this chapter or is represented on a community policy and management team. Those persons appointed to represent community agencies shall be authorized to make policy and funding decisions for their agencies.

The local governing body may appoint other members to the team, including, but not limited to, a local government official, a local law-enforcement official and representatives of other public agencies.

When any combination of counties, cities or counties and cities establishes a community policy and management team, the membership requirements previously set out shall be adhered to by the team as a whole.

Persons who serve on the team shall be immune from any civil liability for decisions made about the appropriate services for a family or the proper placement or treatment of a child who comes before the team, unless it is proven that such person acted with malicious intent. Any person serving on such team who does not represent a public agency shall file a statement of economic interests as set out in § 2.1-639.15 of the State and Local Government Conflict of Interests Act (§ 2.1-639.1 et seq.). Persons representing public agencies shall file such statements if required to do so pursuant to the State and Local Government Conflict of Interests Act.

Persons serving on the team who are parent representatives or who represent private organizations or associations of providers for children's or family services shall abstain from decision-making involving individual cases or agencies in which they have either a personal interest, as defined in § 2.1-639.2 of the State and Local Government Conflict of Interests Act, or a fiduciary interest.

§ 2.1-752. Community policy and management teams; powers and duties.

The community policy and management team shall manage the cooperative effort in each community to better serve the needs of troubled and at-risk youths and their families and to maximize the use of state and community resources. Every such team shall:

1. Develop interagency policies and procedures to govern the provision of services to children and families in its community;

2. Develop interagency fiscal policies governing access to the state pool of funds by the eligible populations including immediate access to funds for emergency services and shelter care;

3. Establish policies to assess the ability of parents or legal guardians to contribute financially to the cost of services to be provided and, when not specifically prohibited by federal or state law or regulation, provide for appropriate parental or legal guardian financial contribution, *utilizing a standard sliding fee scale based upon ability to pay*;

4. Coordinate long-range, community-wide planning which ensures the development of resources and services needed by children and families in its community including consultation on the development of a community-based system of services established under § 16.1-309.3;

5. Establish policies governing referrals and reviews of children and families to the family

assessment and planning teams and a process to review the teams' recommendations and requests for funding;

6. Establish quality assurance and accountability procedures for program utilization and funds management;

7. Establish procedures for obtaining bids on the development of new services;

8. Manage funds in the interagency budget allocated to the community from the state pool of funds, the trust fund, and any other source;

9. Authorize and monitor the expenditure of funds by each family assessment and planning team;

10. Have authority to submit grant proposals which benefit its community to the state trust fund and to enter into contracts for the provision or operation of services upon approval of the participating governing bodies;

11. Serve as its community's liaison to the state management team, reporting on its programmatic and fiscal operations and on its recommendations for improving the service system, including consideration of realignment of geographical boundaries for providing human services; ~~and~~

12. *Collect and provide uniform data to the State Executive Council on, but not limited to, expenditures, number of youth served in specific CSA activities, length of stay for residents in core licensed residential facilities, and proportion of youth placed in treatment settings suggested by a uniform assessment instrument for CSA-funded services; and*

~~12.~~ 13. Have the power to administer funds pursuant to § 16.1-309.3.

§ 2.1-754. Family assessment and planning team; powers and duties.

The family assessment and planning team, *in accordance with § 2.1-746*, shall assess the strengths and needs of troubled youths and families who are approved for referral to the team and identify and determine the complement of services required to meet these unique needs.

Every such team, in accordance with policies developed by the community policy and management team, shall:

1. Review referrals of youths and families to the team;

2. Provide for family participation in all aspects of assessment, planning and implementation of services;

3. Develop an individual family services plan for youths and families reviewed by the team which provides for appropriate and cost-effective services;

4. Where parental or legal guardian financial contribution is not specifically prohibited by federal or state law or regulation, or has not been ordered by the court or by the Division of Child Support Enforcement, assess the ability of parents or legal guardians, *utilizing a standard sliding fee scale, based upon ability to pay*, to contribute financially to the cost of services to be provided and provide for appropriate financial contribution from parents or legal guardians in the individual family services plan;

5. Refer the youth and family to community agencies and resources in accordance with the individual family services plan;

6. Recommend to the community policy and management team expenditures from the local allocation of the state pool of funds; and

7. Designate a person who is responsible for monitoring and reporting, as appropriate, on the progress being made in fulfilling the individual family services plan developed for each youth and family, such reports to be made to the team or the responsible local agencies.

§ 2.1-755. Referrals to family assessment and planning teams.

The community policy and management team shall establish policies governing the referral of troubled youths and families to the family assessment and planning team. These policies shall include ~~which youths and families that all youth and families for which CSA-funded treatment services are requested~~ are to be assessed by the family assessment and planning team *or a collaborative, multidisciplinary team process approved by the State Executive Council* and shall consider the criteria set out in § 2.1-758 A 1 and 2. *Except for cases involving only the payment of foster care maintenance which shall be at the discretion of the local community policy and management team, cases for which service plans are developed outside of this family assessment and planning team process shall not be eligible for state pool funds.*

Nothing in this section shall prohibit the use of state pool funds for emergency placements, provided the youth are subsequently assessed by the family assessment and planning team or an approved collaborative, multidisciplinary team process within fourteen days of admission and the emergency placement is approved at the time of placement. In cases involving the denial of state pool funds resulting from parental refusal to consent to release of student records under federal law, where such refusal precludes the development of placement through the family assessment and planning team process or the approved, collaborative, multidisciplinary team process, an appeal for good cause may be made to the Council.

The community policy and management team shall also establish policies governing the circumstances under which youths and families are not required to be assessed by a family assessment and planning team, but for whom funds from the state pool may be directly accessed to pay for specified services.

§ 2.1-757. State pool of funds.

A. Effective July 1, 1993, there is established a state pool of funds to be allocated to community policy and management teams in accordance with the appropriations act and appropriate state regulations. These funds, as made available by the General Assembly, shall be expended for public or private nonresidential or residential services for troubled youths and families.

The purposes of this system of funding are:

1. To place authority for making program and funding decisions at the community level;
2. To consolidate categorical agency funding and institute community responsibility for the provision of services;
3. To provide greater flexibility in the use of funds to purchase services based on the strengths and needs of youths and families; and
4. To reduce disparity in accessing services and to reduce inadvertent fiscal incentives for serving children according to differing required local match rates for funding streams.

B. The state pool shall consist of funds which serve the target populations identified in subdivisions 1 through 5 below in the purchase of residential and nonresidential services for children. References to funding sources and current placement authority for the targeted populations of children are for the purpose of accounting for the funds in the pool. It is not intended that children be categorized by individual funding streams in order to access services. The target population shall be the following:

1. Children placed for purposes of special education in approved private school educational programs, previously funded by the Department of Education through private tuition assistance;
2. Children with disabilities placed by local social services agencies or the Department of Juvenile Justice in private residential facilities or across jurisdictional lines in private, special education day schools, if the individualized education program indicates such school is the appropriate placement while living in foster homes or child-caring facilities, previously funded by the Department of Education through the Interagency Assistance Fund for Noneducational Placements of Handicapped Children;
3. Children for whom foster care services, as defined by § 63.1-55.8, are being provided to prevent foster care placements, and children placed through parental agreements, entrusted to local social service agencies by their parents or guardians or committed to the agencies by any court of competent jurisdiction for purposes of placement in suitable family homes, child-caring institutions, residential facilities or independent living arrangements, as authorized by § 63.1-56;
4. Children placed by a juvenile and domestic relations district court, in accordance with the provisions of § 16.1-286, in a private or locally operated public facility or nonresidential program; and
5. Children committed to the Department of Juvenile Justice and placed by it in a private home or in a public or private facility in accordance with § 66-14.

C. The General Assembly and the governing body of each county and city shall annually appropriate such sums of money as shall be sufficient (i) to provide special education services and foster care services for children identified in subdivisions B 1, B 2 and B 3 of this section and (ii) to meet relevant federal mandates for the provision of these services. The community policy and management team shall anticipate to the best of its ability the number of children for whom such services will be required and reserve funds from its state pool allocation to meet these needs. *Nothing in this section prohibits local governments from requiring parental or legal financial contributions, where not specifically prohibited by federal or state law or regulation, utilizing a standard sliding fee scale based upon ability to pay, as provided in the appropriation act.*

D. When a community services board established pursuant to § 37.1-195, local school division, local social service agency, court service unit, or the Department of Juvenile Justice has referred a child and family to a family assessment and planning team and that team has recommended the proper level of treatment and services needed by that child and family and has determined the child's eligibility for funding for services through the state pool of funds, then the community services board, the local school division, local social services agency, court service unit or Department of Juvenile Justice has met its fiscal responsibility for that child for the services funded through the pool. Each agency shall continue to be responsible for providing services identified in individual family service plans which are within the agency's scope of responsibility and which are funded separately from the state pool.

E. In any matter properly before a court wherein the family assessment and planning team has recommended a level of treatment and services needed by the child and family, the court shall consider the recommendations of the family assessment and planning team. However, the court may make such other disposition as is authorized or required by law, and services ordered pursuant to such disposition shall qualify for funding as appropriated under this section.

§ 2.1-758. Eligibility for state pool of funds.

A. In order to be eligible for funding for services through the state pool of funds, a youth, or family with a child, shall meet one or more of the criteria specified in subdivisions 1 through 4 below and shall be determined *through the use of a uniform assessment instrument and process* and by policies of the community policy and management team to have access to these funds.

1. The child or youth has emotional or behavior problems which:
 - a. Have persisted over a significant period of time or, though only in evidence for a short period of

time, are of such a critical nature that intervention is warranted;

b. Are significantly disabling and are present in several community settings, such as at home, in school or with peers; and

c. Require services or resources that are unavailable or inaccessible, or that are beyond the normal agency services or routine collaborative processes across agencies, or require coordinated interventions by at least two agencies.

2. The child or youth has emotional or behavior problems, or both, and currently is in, or is at imminent risk of entering, purchased residential care. In addition, the child or youth requires services or resources that are beyond normal agency services or routine collaborative processes across agencies, and requires coordinated services by at least two agencies.

3. The child or youth requires placement for purposes of special education in approved private school educational programs.

4. The child or youth has been placed in foster care through a parental agreement between a local social services agency or public agency designated by the community policy and management team and his parents or guardians, entrusted to a local social services agency by his parents or guardian or has been committed to the agency by a court of competent jurisdiction for the purposes of placement as authorized by § 63.1-56.

B. For purposes of determining eligibility for the state pool of funds, "child" or "youth" means (i) a person less than eighteen years of age and (ii) any individual through twenty-one years of age who is otherwise eligible for mandated services of the participating state agencies including special education and foster care services.

§ 16.1-286. Cost of maintenance; approval of placement; semiannual review; roster of placed children.

A. When the court determines that the behavior of a child within its jurisdiction is such that it cannot be dealt with in the child's own locality or with the resources of his locality, the judge shall refer the child to the locality's family assessment and planning team for assessment and a recommendation for services. Based on this recommendation, the court may take custody and place the child, pursuant to the provisions of subdivision 5 of § 16.1-278.4 or 13 b of § 16.1-278.8 in a private or locally operated public facility, or nonresidential program ~~and approved by the State Board of Juvenile Justice with funding in accordance with the Comprehensive Services Act for At-Risk Youth and Families (§ 2.1-745 et seq.).~~ No child shall be placed outside the Commonwealth by a court without first complying with the appropriate provisions of Chapter 10.1 (§ 63.1-219.1 et seq.) of Title 63.1 or with regulations of the State Board of Social Services relating to resident children placed out of the Commonwealth.

The Board shall establish a per diem allowance to cover the cost of such placements. This allowance may be drawn from funds allocated through the state pool of funds to the community policy and management team of the locality where the child resides as such residence is determined by the court. The cost, however, shall not exceed that amount which would be incurred if the services required by the child were provided in a juvenile facility operated by the Department of Juvenile Justice. However, when the court determines after an investigation and a hearing that the child's parent or other person legally obligated to provide support is financially able to contribute to support of the child, the court may order that the parent or other legally obligated person pay, in such manner as the court may direct, reasonable sums commensurate with the ability to pay toward the support and treatment of the child placed in a program pursuant to this section. If the parent or other obligated person willfully fails or refuses to pay such sum, the court may proceed against him for contempt. Alternatively, the court, after reasonable notice to the obligor, may enter an order adjudicating that the obligor is delinquent and such order shall have the effect of a civil judgment when duly docketed in the manner prescribed for the docketing of other judgments for money provided.

B. The court service unit of the locality which made the placement shall be responsible for monitoring and supervising all children placed pursuant to this section. The court shall receive and review, at least semiannually, recommendations concerning the continued care of each child in such placements.

C. The Director shall cause a current roster to be maintained concerning the whereabouts of all children placed pursuant to this section.