



COMMONWEALTH of VIRGINIA
DEPARTMENT OF SOCIAL SERVICES
Office of the Commissioner

Danny TK Avula MD, MPH
Commissioner

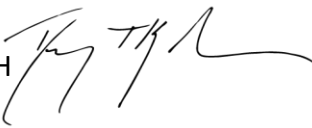
January 6, 2023

MEMORANDUM

TO: The Honorable Glenn Youngkin
Governor of Virginia

The Honorable Robert D. Orrock, Sr.
Chair, House Health, Welfare & Institution Committee

The Honorable L. Louise Lucas
Chair, Senate Education & Health Committee

FROM: Danny TK Avula MD, MPH 

SUBJECT: Report on Unaccompanied Homeless Youth

This report is submitted in compliance with Chapter 801 of the 2022 Acts of Assembly (HB717), which states:

2. That the Department of Social Services (the Department) shall establish a work group composed of at least one local education agency liaison for homeless children and youths designated pursuant to 42 U.S.C. § 11432(g)(1)(J)(ii), one attorney who represents unaccompanied homeless youths, one provider of housing and other services for unaccompanied homeless youths, one provider of medical care for unaccompanied homeless youths, three individuals who are or have been unaccompanied homeless youths, and such other stakeholders as the Department shall deem appropriate to make recommendations to the Board of Social Services regarding regulations adopted pursuant to this act.

3. That the work group established pursuant to the second enactment of this act shall also develop recommendations regarding authorizing unaccompanied homeless youths to consent to medical care. The Department of Social Services shall report such recommendations to the

Governor and the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health by December 1, 2022.

Please contact me should you have questions.

DA:kc

Attachment

cc: The Honorable John Littel, Secretary of Health and Human Resources

Department of Social Services
House Bill 717 Workgroup Summary and Recommendations
December 2022

Report Mandate

Chapter 801 of the 2022 Acts of Assembly (House Bill 717) became effective on July 1, 2022. This chapter is included in Appendix A and mentions the following enactment clauses:

- 2. That the Department of Social Services (the Department) shall establish a work group composed of at least one local education agency liaison for homeless children and youths designated pursuant to 42 U.S.C. § 11432(g)(1)(J)(ii), one attorney who represents unaccompanied homeless youths, one provider of housing and other services for unaccompanied homeless youths, one provider of medical care for unaccompanied homeless youths, three individuals who are or have been unaccompanied homeless youths, and such other stakeholders as the Department shall deem appropriate to make recommendations to the Board of Social Services regarding regulations adopted pursuant to this act.*
- 3. That the work group established pursuant to the second enactment of this act shall also develop recommendations regarding authorizing unaccompanied homeless youths to consent to medical care. The Department of Social Services shall report such recommendations to the Governor and the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health by December 1, 2022.*

The Problem

The [2020 Annual Homelessness Assessment Report \(AHAR\)](#) to Congress identified a total of 5,957 Virginian's experiencing homelessness. Homelessness deeply impacts physical and mental health for any individual, with more significant impacts on children and youth. Unaccompanied homeless youth (UHY) is defined in [Virginia Code § 22.1-3](#) as “youths who are not in the physical custody of their parents” and “who lack a fixed, regular, and adequate nighttime residence.” The definition includes those youth who “(a) are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to lack of alternative adequate accommodations or in emergency or transitional shelters; or are abandoned in hospitals; (b) have a primary nighttime residence that is a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or (c) are living in parked cars, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings.”

According to the 2020 AHAR, during a point-in-time count in 2020, Virginia had 234 unaccompanied homeless youth. Additionally, the Unaccompanied Homeless Youth Virginia Data, which was submitted to the United States Department of Education, showed that during the 2019-20 academic year, Virginia schools identified 1,948 students as unaccompanied homeless youths (as reported by Dr. Patricia Popp, Virginia's McKinney-Vento Homeless Liaison). The preceding three point-in-time counts for the 2016-17, 2017-18, and 2018-19 academic years showed that Virginia schools had identified 2,879, 3,003, and 2,672 students as unaccompanied

homeless youths, respectively. It is noted that the 2019-20 academic year saw a sharp decrease in the number of students identified as an unaccompanied homeless youth due to the COVID-19 pandemic and the closure of schools.

Unaccompanied homeless youth are among the most vulnerable of the homeless population and are often the victims of crimes, including but not limited to human trafficking. Organizations and programs offering services to people experiencing homelessness are largely unable to offer their services to people under the age of 18 due to the youth's inability to consent to services for themselves. The needs of unaccompanied homeless youth are often very different than the needs of adults experiencing homelessness and call for youth-specific interventions and services.

Background

House Bill (HB) 717 co-patrons were Delegates Filler-Corn and Willett. The bill addressed the ability of youth under the age of 18, who are not in the care of their parents/guardian and are experiencing homelessness, to consent to shelter care.

HB 717 was assigned to the House Committee on Health, Welfare, and Institutions (HWI) where the first amendments were made. The original bill identified four types of individuals who could make the determination that a young person met the definition of an unaccompanied homeless youth:

- (1) a social worker who is employed by a governmental agency or nonprofit organization that receives public or private funding to provide services to children or to homeless individuals,
- (2) an employee of any local education agency who serves as a liaison for homeless children and youth designated pursuant to the McKinney-Vento Homeless Assistance Act (McKinney-Vento),
- (3) a school social worker or counselor, or
- (4) an attorney representing the youth in any legal matter.

The amended bill limited this list of individuals to only an employee of any local education agency who serves as a liaison for homeless children and youths designated pursuant to McKinney-Vento and added a clause that allows up to 72 hours for the youth to obtain the determination from the McKinney-Vento liaison.

Additionally, the amended bill changed the requirements for notification. The original bill required that the shelter provider immediately notify the youth's parents of their whereabouts, unless they determined that it was not in the youth's best interest. The amended bill adopted by HWI changed this to require that if the provider determined that it was not in the youth's best interest to contact the parents, the provider must notify the local department of social services (LDSS) regardless of foster care status. The House passed the bill with these substitutions.

In the Senate, HB 717 went to both the Committee on Rehabilitation and Social Services and the Committee on Finance and Appropriations. The bill was further amended to require notification of the youth's whereabouts be made to local law enforcement and to the National Center for

Missing and Exploited Children (NCMEC), regardless of whether the youth had been reported as missing.

Additionally, the original bill and the version that passed through the House required shelter providers to be registered with the Department of Social Services (DSS). It further required DSS to adopt regulations that included a process for registering these providers, including specific information that DSS must collect from these providers in order to register them. The Senate removed the requirement of registry with DSS but left the directive that DSS make recommendations to their Board to “adopt regulations to implement the provisions of this section.”

HB 717, as enrolled and signed into law on May 27, 2022, effective July 1, 2022, had five parts:

- A. Definition of “provider” and “unaccompanied homeless youth”;
- B. Requirement that the youth’s status as an unaccompanied homeless youth be evidenced by a statement from a local school liaison for homeless children and youth within 72 hours;
- C. Notification of parents/guardian, or when not in the best interest of the youth to contact the parents/guardian, notification to the local department of social services, local law enforcement, and NCMEC;
- D. Provider liability protection when acting in good faith and complying with the requirements of the law; and
- E. That the Board shall adopt regulations to implement the provisions of the law.

HB 717, as enrolled, contained an enactment clause that directed DSS to establish a workgroup to make recommendations to their Board regarding regulations adopted pursuant to the act, and to develop recommendations regarding authorizing unaccompanied homeless youths to consent to medical care. HB 717 is included as Appendix A.

Working Group Discussions

The workgroup met virtually on July 22, 2022, August 10, 2022, and September 15, 2022. During those three meetings, the workgroup discussed three main concerns.

First, members of the workgroup expressed concern over whether HB 717 was in the most appropriate code section of the Code of Virginia. While earlier versions of the bill had directed DSS to create a registry of providers, the enrolled bill did not include any such directive. The purpose of the bill was to ensure that unaccompanied homeless youth have safe housing options and, therefore, some members stated Title 36 of Virginia Code would be a more appropriate placement. Members of the workgroup offered that the Virginia Department of Housing and Community Development (DHCD) is better equipped to promulgate regulations, offer support, and expand programs that will provide shelter to unaccompanied homeless youth.

The second concern was that the only person who could verify an unaccompanied homeless youth’s status is the school McKinney-Vento liaison. While some school divisions have created

positions that are solely dedicated to this work, others add this responsibility to another position (i.e. the school social worker). Because many liaisons are not 12-month employees, there would be multiple times throughout the year, such as holidays and summer break, when the liaison would not be able to be reached within the 72-hour period required by the statute.

The third concern was regarding the fact that the statute requires a provider make an immediate notification to DSS when the school cannot reach the youth's parent or when the provider determines it is not in the youth's best interest to contact the parent. Members expressed confusion around whether this requirement would correlate to a report of child abuse or neglect or if it was simply a 'notification.' Many of these notifications would not meet the criteria for Child Protective Services (CPS) intervention. If it is not a report of abuse or neglect, DSS would need to institute a process for documenting such notification and determine how to use it.

The statute requires a report to be made to local law enforcement and the National Center for Missing & Exploited Children (NCMEC). If a youth is on the NCMEC registry, NCMEC would accept the report and act accordingly. However, if the youth is not on the NCMEC registry, there would be nothing to report. The workgroup determined that the statute should instead require that the provider conduct a search of the registry and if the youth is on the registry, the provider must make a report to NCMEC.

Additionally, the workgroup has significant concerns with the requirement that the provider make a report to local law enforcement. While unaccompanied youth are at risk of human trafficking, reporting all unaccompanied youth to law enforcement does not equate to an assessment. Once a report is made to law enforcement, the statute provides no clear directive to law enforcement as to what they are to do with this information. These notifications raise the possibility that a youth would be detained, placed in foster care, or returned to a home that was not in the youth's best interest. Based on the foregoing, the workgroup believes that the requirement to notify law enforcement and DSS could be a significant barrier to providing a youth with safe shelter, possibly making them at greater risk of victimization. The bill does give youth access to resources such as safe shelter, allowing risk to be assessed, that includes human trafficking.

Recommendations

The working group did not come to consensus on recommendations regarding regulations or for unaccompanied homeless youth to consent to medical care.

Workgroup Members and Activities

- Nikki Cox, Director of Family Services and Leadership Sponsor, VDSS
- Aaran Kelley, Family First Project Manager, Family Services, VDSS
- Alisa Foley, Policy and Program Evaluation Consultant, Division of Licensing, VDSS
- Nicole Shipp, CPS Program Consultant, Family Services, VDSS
- Gena Boyle, Deputy Commissioner of Policy and Administration, VDSS
- Shannon Hartung, CPS Program Manager, Family Services, VDSS

- Morgan Nelson, Program Manager for Prevention Services, Family Services, VDSS
- Sharon Lindsay, Associate Director, Sr., Division of Licensing, VDSS
- Tara Davis-Ragland, Director, Licensing Programs, VDSS
- Em Parente, Assistant Director of Permanency, Policy, and Practice, Family Services, VDSS
- Nikki Callaghan, Legislation, Regulations, and Guidance, Human Services Portfolio, VDSS
- Taylor Harvey-Ryan, Housing Program Manager with the Homeless and Special Needs Housing Unit, VDHCD
- Kristen Dahlman, Policy and Planning Manager, VDHCD
- Sandra Powell, Senior Deputy of Community Development and Housing, VDHCD
- Samantha Jaeger, Scheduler and Legislative Assistant, Delegate Eileen Filler-Corn's Office
- Allison Gilbreath, Policy and Programs Director, Voices for Virginia's Children
- Alex Wagaman, Associate Professor, VCU School of Social Work
- Kimberly Embe, Lived Expertise, Advocates for Richmond Youth
- Naya Williams, Lived Expertise, Advocates for Richmond Youth
- Tiffany Haynes, Lived Expertise
- Valerie L'Herrou, Staff Attorney, Virginia Poverty Law Center
- Pat Popp, State McKinney-Vento Homeless Liaison, William & Mary
- Kathi Sheffel, McKinney-Vento and Foster Care Liaison, Fairfax County Public Schools
- Judith Dittman, CEO, Second Story
- Rodd Monts, Director of State Policy, Schoolhouse Connection
- Michael Becketts, Director, Fairfax County Family Services
- Renee Hammel, Nurse Practitioner, Daily Planet Health Services

CHAPTER 801

An Act to amend the Code of Virginia by adding in Chapter 8 of Title 63.2 a section numbered [63.2-806](#), relating to unaccompanied homeless youths; services; consent.

[H 717]

Approved May 27, 2022

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 8 of Title 63.2 a section numbered [63.2-806](#) as follows:

§ [63.2-806](#). *Unaccompanied homeless youths; services; consent.*

A. *As used in this section,*

"Provider" means any person or organization that provides housing, including emergency shelter, or other services to an unaccompanied homeless youth and that receives funding from the Virginia Homeless Solutions Program or any other grant program administered by the Homeless and Special Needs Housing unit of the Department of Housing and Community Development.

"Unaccompanied homeless youth" means a homeless child or youth described in subdivision A 7 of § [22.1-3](#) who is not in the physical custody of a parent or guardian.

B. *A child who is 14 years of age or older and who is an unaccompanied homeless youth as evidenced by a statement so stating and signed by an employee of any local education agency who serves as a liaison for homeless children and youths designated pursuant to 42 U.S.C. § 11432(g)(1)(J)(ii) shall be deemed an adult for the purpose of consenting to housing or other services provided in accordance with this section for himself or his minor child. A child who is 14 years of age or older who is an unaccompanied homeless youth who cannot produce a statement signed by an employee of any local education agency who serves as a liaison for homeless children and youths designated pursuant to 42 U.S.C. § 11432(g)(1)(J)(ii) shall be deemed an adult for the purpose of consenting to housing or other services provided in accordance with this section for himself or his minor child for a period of up to 72 hours.*

C. *A provider that provides housing services, including emergency shelter, to an unaccompanied homeless youth shall attempt to contact the parents or guardian of such unaccompanied homeless youth to inform them of the whereabouts of such unaccompanied homeless youth. If the provider is unable to contact the parent or guardian of the unaccompanied homeless youth or if the provider determines that contacting the parent or guardian is not in the best interests of the youth, the provider shall (i) document the steps taken to identify and notify the parent or guardian or the reasons for the determination that contact with the parent or guardian is not in the best interests of the unaccompanied homeless youth and (ii) immediately notify the local department of social services of the whereabouts of the child. The provider shall report the child's presence to local law enforcement and the National Center for Missing and Exploited Children in order to determine whether the child has been reported missing or the National Center for Missing and Exploited Children has a record of the child being reported missing by a legal guardian. The provider shall retain such documentation for a period of not less than five years.*

D. *Any person who, in good faith, relies upon a written statement described in subsection B shall not be liable in any civil or criminal action for delivering services to an unaccompanied homeless youth pursuant to this section without the consent of his parent or guardian, provided that such provider has complied with the requirements of this section. However, no provider shall be relieved of liability for any negligent or criminal acts on the basis of this section.*

E. *The Board shall adopt regulations to implement the provisions of this section.*

2. That the Department of Social Services (the Department) shall establish a work group composed of at least one local education agency liaison for homeless children and youths designated pursuant to 42 U.S.C. § 11432(g)(1)(J)(ii), one attorney who represents unaccompanied homeless youths, one provider of housing and other services for unaccompanied homeless youths, one provider of medical care for unaccompanied homeless youths, three individuals who are or have been unaccompanied homeless youths, and such other stakeholders as the Department shall deem appropriate to make recommendations to the Board of Social Services regarding regulations adopted pursuant to this act.

3. That the work group established pursuant to the second enactment of this act shall also develop recommendations regarding authorizing unaccompanied homeless youths to consent to medical care. The Department of Social Services shall report such recommendations to the Governor and the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health by December 1, 2022.