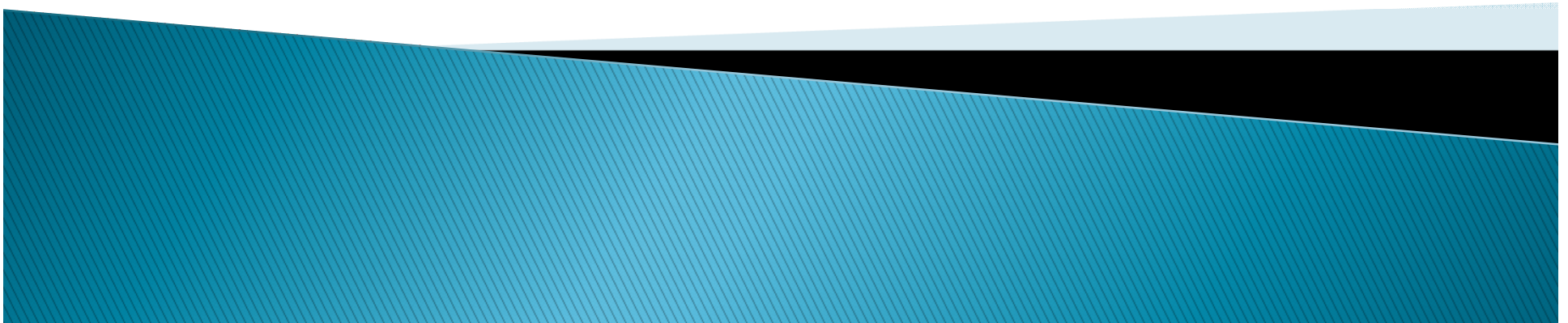


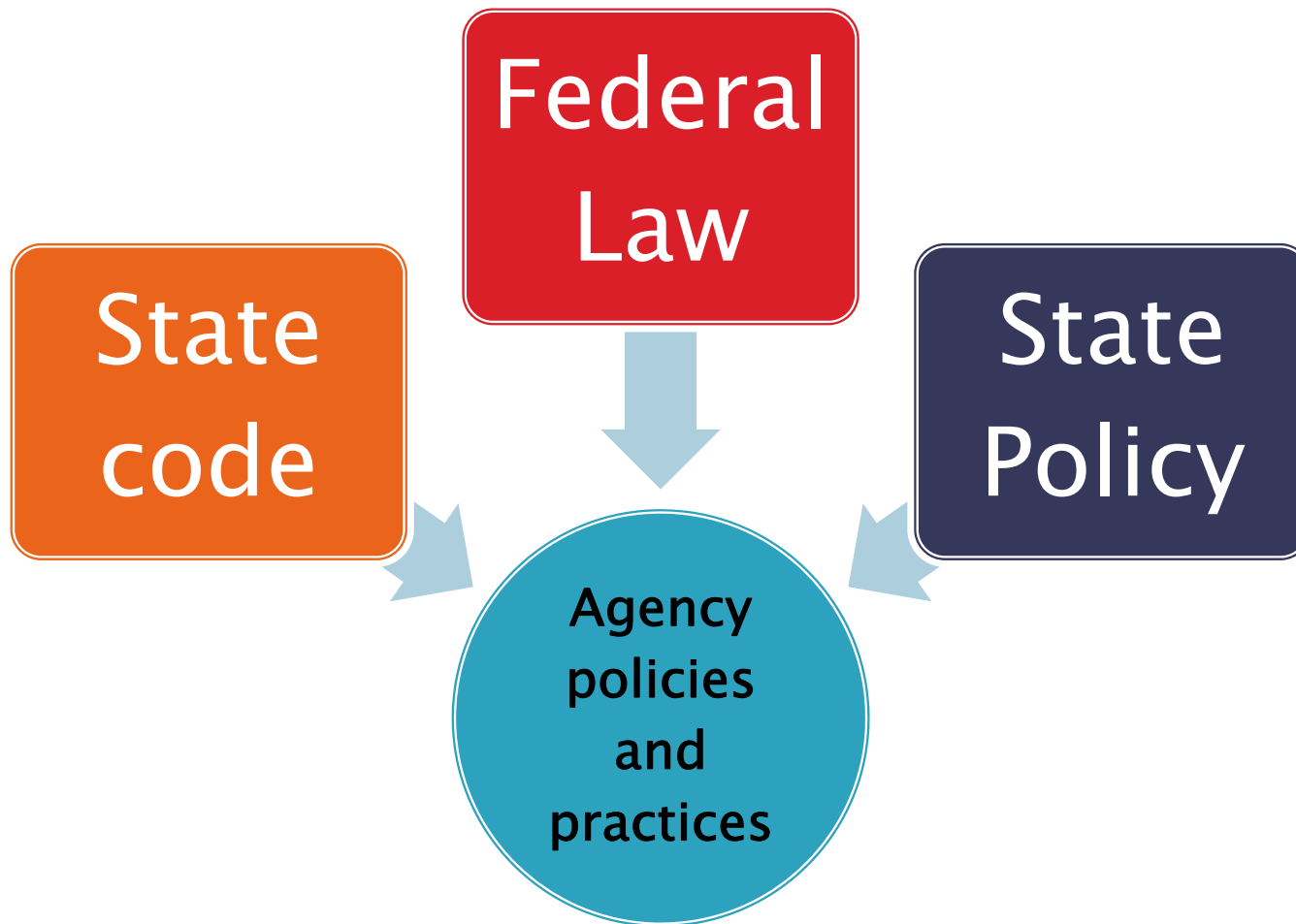


# Department of Social Services

Presentation of May 8, 2018



# Structure of Local Agency



# State Supervised, Locally Administered

## Formal Reviews

- Quality Assurance and Accountability (QAA) Review
  - On-site; Fiscal review the month following the opening of a custody case; therefore, this agency has had a fiscal review almost every month for over a year;
- ▶ Quality Service Review (QSR)
  - Quarterly; On-site; Active custody cases on a quarterly basis
- ▶ Agency Case Review for CPS, On-Going, Foster Care
  - Annual; remote review of electronic case record followed by on-site review of hard record

# State Supervised, Locally Administered Formal Reviews

- ▶ Child and Family Services Review
  - Annual; Federal review conducted by state officials; on-site review of hard record, interviews with workers and families
- ▶ Child Fatality Review
  - Annual; any child fatality in the locality and the family had interaction with local child welfare services

## Informal Reviews

- Inquiries from state home office/regional office in response to constituent contact
- FAPT (Family Assessment & Planning Team)

# State Supervised, Locally Administered

## Case Participants

- DSS Worker • DSS Attorney • Parents/Legal Guardians
- Parents' attorneys (indigent parents are entitled to court-appointed counsel)
- Guardian ad litem (GAL) – attorney who represents the best interests of the child
- Court-appointed Special Advocate (CASA) – trained volunteer who makes independent investigation of case and submits reports and recommendations to court
- Judge – **All** final decisions rest with Juvenile Court judge, or with Circuit Court judge on appeal.



# Child Welfare Services

- Prevention/On-going
- Foster Care
- Child Protective Services

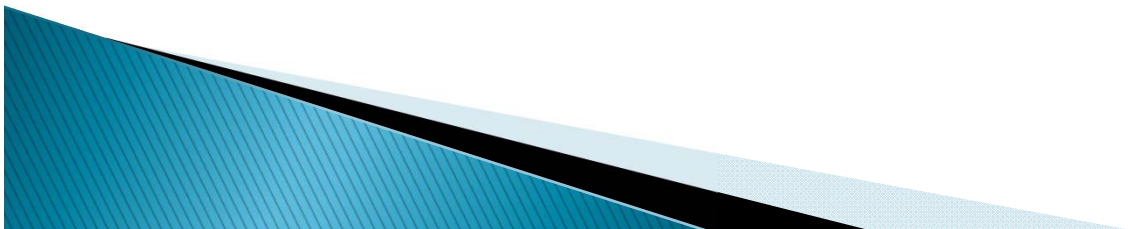
“The child's health and safety shall be the paramount concern of the court and the agency throughout the placement, case planning, service provision and review process.” 16.1–281(B)



# Prevention/On-going

Services that are designed to prevent out-of-home placement. Triggered by:

- ▶ A child becoming involved with court and is determined in need of services;
- ▶ Child protective services investigation/family assessment ending with an assessment of moderate or high risk of future harm or neglect; or
- ▶ Child returned home from foster care
- ▶ Voluntary supportive services (self-referral)





# Child Protective Services

## Receiving a CPS Complaint

- I. Intake – Screening
- II. Structured Decision Making Tool
  - R1, R2, R3
- III. Differentiated Response
  - Family Assessment
  - Investigation
- IV. Close out





# Child Protective Services

## Family Assessment

- Safety Assessment
- Does not end in a finding
- Closes in 45 days – Risk Assessment completed

## Investigation

- Safety Assessment
- Safety Plan when needed
- Identification of Specific Category of Abuse and/or Neglect
- Closes in 45 days, can be extended with cause; Founded or Unfounded, Risk Assessment



# CPS Investigation Results

- Administrative: Based on agency findings, subject to review by the Commissioner of Social Services. Findings result in perpetrator's name being placed in Central Registry. Preponderance of evidence.
- Civil proceedings: Initiated in Juvenile Court, subject to appeal to Circuit Court, and ultimately to Court of Appeals. Preponderance of evidence.
- Criminal proceedings: May begin in Juvenile or Circuit Court, subject to appeal to Circuit Court or Court of Appeals. Beyond reasonable doubt.

The initiation of criminal proceedings may cause delay in proceeding on other tracks.

# Founded Disposition

## Administrative

- ▶ Specifies the category of abuse or neglect
  - Physical Abuse; 14 specific categories, 1 other
  - Physical Neglect; 9 specific categories, 1 other
  - Medical Neglect; 4 specific categories, 1 other
  - Mental Abuse/Mental Neglect
  - Sexual Abuse; 5 specific categories
- ▶ Specifies the level of finding of abuse or neglect
  - Level 1: Significant Harm/Risk of Harm
  - Level 2: Moderate Harm/Risk of Harm
  - Level 3: Minimal Harm/Risk of Harm

# Appeals of Founded Dispositions

## ▶ Local Conference

- Local Director/designee is Hearing Officer
- 45 days to complete unless extension requested by the appellant
- Stayed if active criminal charges
- Outcomes: Reverse, Revise, Sustain

## ▶ State Hearing

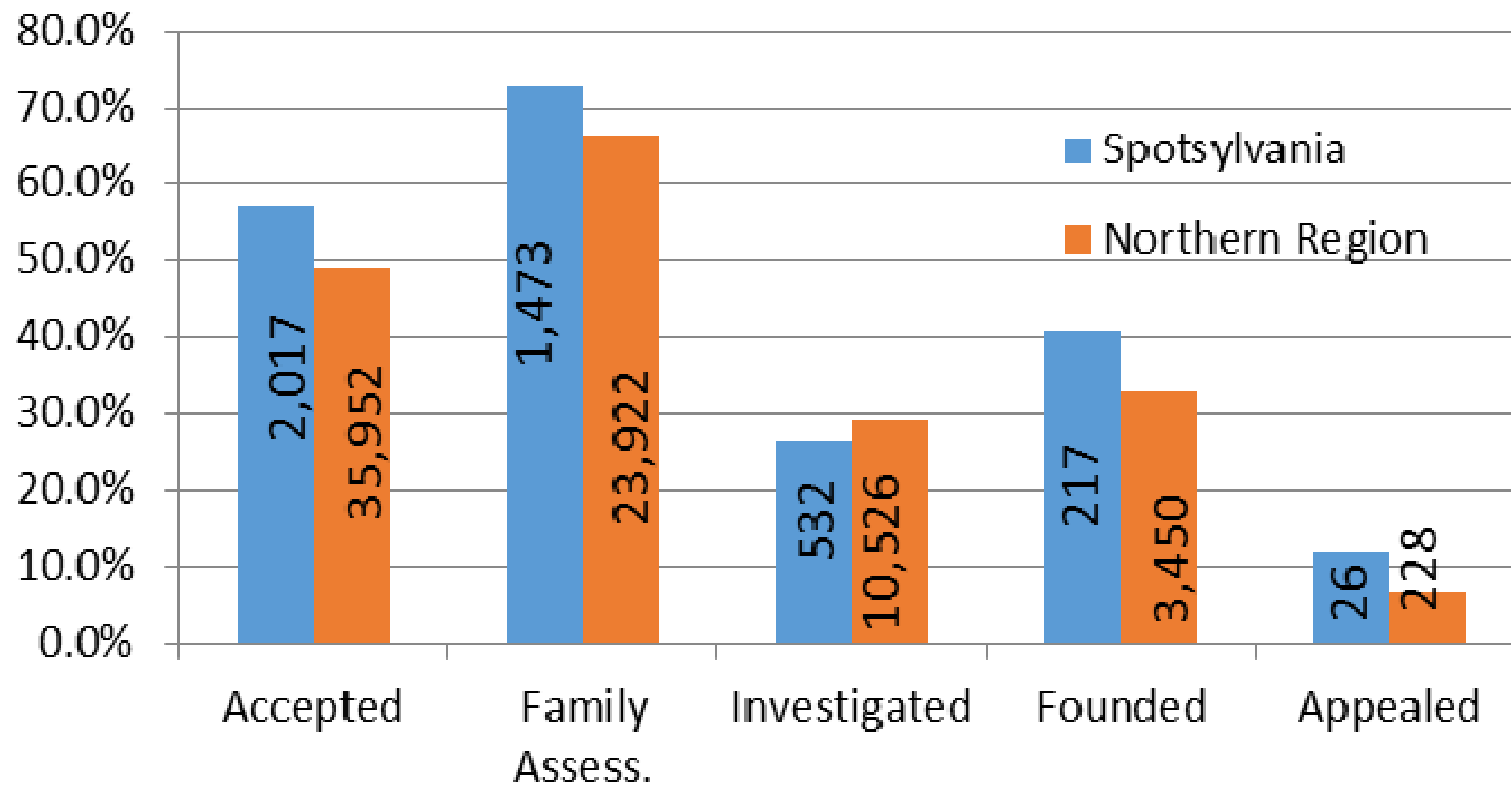
- Appellant has 30 days from close of local appeal
- State Hearing Officer
- Local agency is a participant
- Outcomes: Reverse, Revise, Sustain

## ▶ Circuit Court

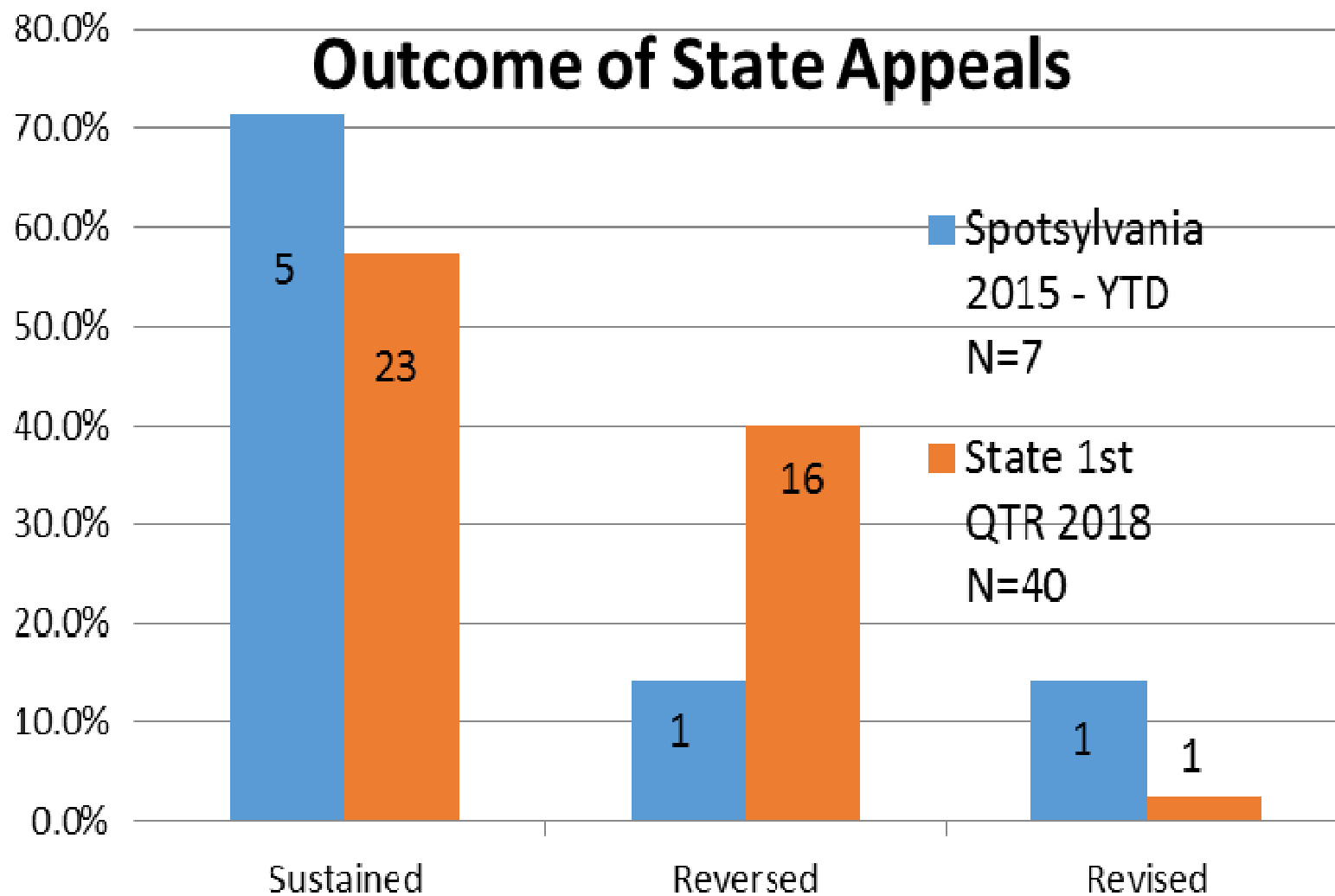


# Abuse/Neglect Referrals

## 7/1/2015 - 6/30/2017



## Outcome of State Appeals



# Examples of Basis of Reversals by State

- ▶ “While these facts support a disposition of Physical Abuse because Appellant’s actions created a threat of physical injury to the child, none of the facts or evidence show that Appellant’s actions constituted physical neglect and the agency did not allege physical abuse. “
- ▶ “The Agency has not met its burden of proof.”
- ▶ “...was inconsistent with regulatory and statutory provisions...”





# Examples of Basis of Reversals by State

- ▶ “The Agency’s case record does not contain the information required in order to allow the Hearing Officer to properly assess this conclusion; most fundamentally, the case record fails to state the basis for the Agency’s conclusion that a Founded disposition is supported by the evidence it gathered during its investigation. The regulations that govern this proceeding provide in 22 VAC 40–705–190(H)(6) that, “The local department shall provide the hearing officer a copy of the investigation record prior to the administrative hearing.” The regulations further provide in 22 VAC 40–705–110(C) that the Agency is required to “make a dispositional assessment after collecting and synthesizing information about the alleged abuse or neglect.”

# Removal from the Caregiver

Necessary to address imminent risk of serious harm to the child.

- ▶ (§16.1–251 A1 of the Code of Virginia). [The petition, affidavit or sworn testimony must establish that] The child would be subjected to an imminent threat to life or health to the extent that severe or irreparable injury would be likely to result if the child were returned to or left in the custody of his parents, guardian, legal custodian or other person standing in loco parentis pending a final hearing on the petition.

# CPS to Foster Care

## First 68 Days

- ▶ JDR: Emergency Removal hearing (ERO) – within 72 hours of removal – court review – ex parte
- ▶ JDR: Preliminary Removal hearing (PRO) – within 5 business days of ERO – court review
- ▶ JDR: Adjudicatory hearing – within 30 days of PRO – court review
- ▶ JDR: Dispositional hearing – within 60 days of PRO – court review – initial foster care plan

# Foster Care

## Dispositional Hearing

Goal identified: First consideration given to “return home”

“If consistent with the child's health and safety, the plan shall be designed to support reasonable efforts which lead to the return of the child to his parents or other prior custodians within the shortest practicable time which shall be specified in the plan.”

### Other goals available:

- ▶ Relative placement
- ▶ Adoption
- ▶ Permanent foster care (16+ )
- ▶ Fostering Futures
- ▶ Another planned permanent living arrangement

# Foster Care

Exceptions: The local board *shall not be required* by the court to make reasonable efforts to reunite the child with a parent if the court finds that

- ▶ (1) parental rights of parent regarding a child's sibling have previously been involuntarily terminated;
  - ▶ (2) parent has been convicted of murder or voluntary manslaughter, (or felony attempt, conspiracy or solicitation to commit), if victim was child of the parent, child with whom parent resided at the time such offense occurred or the other parent of the child;
- Cont.*

# Foster Care

## *Exceptions by the Courts Continued:*

- ▶ (3) parent has been convicted of felony assault or bodily wounding resulting in serious bodily injury or felony sexual assault, if victim was a child of the parent or a child with whom the parent resided at the time of such offense;
- ▶ (4) based on clear and convincing evidence, the parent has subjected any child to aggravated circumstances; or
- ▶ (5) abandoned a child under circumstances which would justify the termination of residual parental rights.

# Foster Care

## Timeline Post 30-Day Dispositional

- ▶ JDR: Foster Care Review hearing (FCR) – within 4 months of dispositional hearing
- ▶ JDR: Permanency Planning hearing (PP) – within 5 months of FCR
- ▶ JDR: Second permanency planning hearing – within 6 months of PP
- ▶ JDR: Termination of parental rights. A petition to terminate parental rights is required by federal regulation when child has been in foster care for 15 out of last 22 months, subject to certain exceptions.



# Child Welfare Services

- Prevention/On-going
- Foster Care
- Child Protective Services

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