



townhall.virginia.gov

Exempt Action Final Regulation Agency Background Document

Agency name	Department of Criminal Justice Services
Virginia Administrative Code (VAC) citation(s)	6 VAC20-230
Regulation title(s)	Regulations Relating to Special Conservator of the Peace
Action title	New Registration and Reporting Requirements
Final agency action date	September 15, 2016
Date this document prepared	September 16, 2016

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA) or an agency's basic statute, the agency is not required, however, is encouraged to provide information to the public on the Regulatory Town Hall using this form. Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The amendments will reflect changes in the law made during the 2016 General Assembly Session. Senate Bill 296 (Chapter 551) made changes to the SCOP program which requires updates to the regulations governing the SCOP program. The Department of Criminal Justice Services (DCJS) is responsible for the regulation of SCOP program.

Currently applicants must submit several documents as part of the initial registration process, to include a fingerprint card for purposes of conducting a criminal history record check. Once registered and appointed, SCOPs are required to self-report any subsequent arrests or convictions to DCJS. There is no current requirement for SCOP applicants to submit fingerprint cards, for purposes of conducting a criminal history record check, in order to renew registrations. There is currently no prohibition for becoming

registered or appointed as a SCOP if the person is prohibited from possessing, transporting or purchasing a firearm, nor is there a duty to self-report firearms' prohibitions.

The first statutory change requires the submission of a fingerprint card prior to DCJS issuing either a temporary or valid registration, which includes initial and renewal registrations. The second statutory change concerns individuals who are prohibited from possessing, transporting or purchasing a firearm. Individuals with this prohibition are no longer eligible for registration with DCJS as a SCOP or eligible for appointment by a circuit court as a SCOP. This prohibition also applies to existing SCOPs whose registrations and appointments may be suspended or revoked if they become prohibited from possessing, transporting or purchasing a firearm. The third statutory change requires existing SCOPs to self-report to DCJS and to the chief law-enforcement officer of any locality in which they have appointments, within three days of becoming ineligible for registration or appointment.

Because of these statutory changes, the existing regulations will be amended to reflect that each individual seeking an initial or renewal registration as a SCOP must submit a fingerprint card, fingerprint application and fingerprint fee as part of the registration process with DCJS. The regulations will be amended to reflect that one of the reasons for the submission of these fingerprint materials is to determine whether the person is prohibited from possessing, transporting or purchasing a firearm. The regulations will be amended to reflect that every applicant shall submit, in addition to existing requirements, all necessary documentation for a criminal history records background search for the initial and renewal registration process. The regulations will be amended to reflect that DCJS may renew a registration when it receives a fingerprint card, application form and applicable fees from the applicant. The regulations will be amended to reflect that DCJS shall deny registration to any person who is prohibited from possessing, transporting or purchasing a firearm. The regulations will be amended to reflect the additional duties, both as an administrative requirement and as a professional standard of conduct, to notify DCJC and the chief law-enforcement officer of all the localities in which he is authorized to serve within three days of becoming ineligible for registration or appointment. Finally, the regulations will be amended to reflect that no person who is prohibited from possessing, transporting or purchasing a firearm shall be registered as a SCOP.

Statement of final agency action

Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

On September 15, 2016, the Criminal Justice Services Board voted to approve the Department of Criminal Justice Services to file an exempt regulatory action to promulgate amendments to 6VAC20-230 Regulations Relating to Special Conservator of the Peace, 6VAC20-230-40 Fingerprint Processing, 6VAC20-230-60 Application Procedures and Requirements, 6VAC20-230-70 Renewal Registration Application, 6VAC20-230-120 Denial, Probation, Suspension and Revocation, 6VAC20-230-140 Registered Individual Administrative Requirements, and 6VAC20-230-150 Registered Individual Standards of Conduct.

Family impact

Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage

economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The regulatory action has the potential to impact the institution of the family and family stability, however the impact is no greater than the impact the current regulations already have on family and family stability. Presently, SCOPs are required to renew their registrations with DCJS by submitting certain applications and fees. The new regulation will require registrants to include a fingerprint card, application and fee as part of their renewal process. The renewal fees are sometimes paid for by employers and sometimes paid for by the individual registrant. Thus, to the extent that individuals pay for their own renewal fees, there is a chance that this may impact the institution of the family and family stability.

However, two factors must be considered. First, under the current regulatory scheme, SCOPs already have a duty to self-report new arrests and convictions to DCJS. Assuming that SCOPs comply with this duty, any new information they self-report has the potential to impact their registration status, to include revocation. Thus, the outcome of self-reporting a conviction and DCJS conducting a criminal history record check should be the same.

Second, the fiscal impact on the family and family stability must be weighed against the potential harm to all Virginia families when a SCOP, who has the same arrest authority as a law enforcement officer, who has the same authority to use deadly force and to carry a firearm, has been convicted of a crime that disqualifies him from eligibility or he becomes prohibited him from possessing, transporting or purchasing a firearm. Because SCOPs are given significant law enforcement powers by the state, the public and all Virginia families have a vested interest in knowing that SCOPs are not violating the very laws they are enforcing.